

1 CHAIR: This is a continuation  
2 of the hearing on the Tennessee Gas Pipeline Company,  
3 Londonderry 20 Inch Replacement Project, Docket #00-01  
4 and we finally finished our panel last night and we'll  
5 now, as we discussed yesterday, have a presentation of  
6 a witness from Public Counsel.

7 ATTORNEY WAGELING: Thank you Mr.  
8 Chairman, I also would like to just indicate for the  
9 record that at this point I will waive presenting a  
10 statement of position so that we can continue providing  
11 testimony to the Committee and at some point either I  
12 can submit something in writing or fill in the record  
13 when we have more time.

14 CHAIR: Sure.

15 ATTORNEY WAGELING: Thank you. Would  
16 someone swear in the witness?

17 **ANDREW F. MCKOWN**

18 Having been duly sworn by Attorney V. Iacopino  
19 was examined and testified as follows:

20 **DIRECT EXAMINATION BY ATTORNEY WAGELING:**

21 Q Thank you. If you could state your full name for the  
22 record and indicate how you are employed? And also  
23 provide your business address.

24 A My name is Andrew F. McKown. I am employed by Haley &

1 Aldrich. The address is 465 Medford Street in Boston,  
2 Massachusetts.

3 Q Mr. McKown, would you please tell the Committee how long  
4 you've been employed with Haley & Aldrich?

5 A I've been with Haley & Aldrich for 23 years.

6 Q Have you had any involvement in the review of the  
7 application process submitted by Tennessee Gas Pipeline  
8 which is currently before this Committee for which you  
9 have been in attendance for the hearings?

10 A Yes, I have.

11 ATTORNEY WAGELING: Actually, would you  
12 all mind pulling a couple of exhibits and I will come  
13 back to it and I'll be able to show them to him.  
14 Exhibits 27, 44, 43, and 71. Thank you.

15 Q If you could, I would like you to provide a general  
16 overview of your experience for the Committee.

17 A As I said, I've worked for Haley & Aldrich for 23 years.  
18 Haley & Aldrich is an underground engineering and  
19 environmental consulting company with offices in  
20 Manchester, Boston and 12 others throughout the country.  
21 I have a Bachelor of Science degree in civil engineering  
22 from Tufts University, a Master of Science degree in  
23 civil engineering from MIT. I have developed an area of  
24 expertise in my 23 years in rock engineering and

1 drilling and blasting. I am a member of several related  
2 societies and have been chairman of several committees  
3 within International Society of Explosive Engineers, the  
4 American Rock and Cam Association, American Society of  
5 Civil Engineers. I've had considerable experience in  
6 consulting with respect to drilling and blasting,  
7 including blasting near gas transmission pipelines. I  
8 have taught courses and written some papers on the  
9 subject.

10 Q I have before me now, a variety of exhibits which have  
11 been marked for I.D. purposes. I would like to show you  
12 first Exhibit #27 which I believe is the September 5,  
13 2000 report provided to the Committee in the pre-filed  
14 testimony as well as the pre-filed testimony dated  
15 September 5, 2000. I'd like to also show you what's  
16 been marked as #44 for I.D. purposes which I again,  
17 believe to be the pre-filed testimony of Haley &  
18 Aldrich, supplemental, dated October 9, 2000. I'd like  
19 to also show you what's been marked Exhibit #A43 which  
20 is the Public Utility Commission Safety Division  
21 responses to data requests submitted by Counsel for the  
22 Public. And lastly, what's been marked Exhibit #A71,  
23 which is the supplemental filing of Tennessee Gas  
24 Pipeline, dated October 18, 2000, particularly section

1 E which is the pre-filed testimony of Paul Kretschmer.

2 Are you familiar with all of those exhibits which  
3 I have just shown you?

4 A Yes, I am.

5 Q Specifically, with reference to the pre-filed testimony  
6 submitted by Haley & Aldrich, was it true and accurate  
7 at the time that it was submitted to the Committee?

8 A Yes, it was.

9 Q With the exception of some minor changes which we will  
10 discuss during your testimony, does it remain true and  
11 accurate to this date?

12 A Yes. With the one exception that we'll discuss.

13 Q Thank you. Beyond the documents that I've shown you,  
14 are you familiar with the testimony that's been provided  
15 during the hearings up until this very moment?

16 A Yes.

17 Q Have you been in the room for all of the testimony of  
18 the panel as well as Paul Kretschmer, who was part of  
19 the panel?

20 A Yes.

21 Q Are you familiar with the position of the Public Utility  
22 on the blasting issues?

23 A Yes, I am.

24 Q And do you feel that you are familiar with the position

1 of Tennessee Gas Pipeline on the blasting issues?

2 A Yes.

3 Q Lastly, are you familiar with -- well actually, two  
4 minor things. Are you familiar with the New Hampshire  
5 Code of Administrative Rules, Chapter, Safety - C16000.

6 A Yes. I have reviewed that.

7 Q And are you familiar with Pre Seis which is the company  
8 for which Paul Kretschmer is employed?

9 A Yes, I am.

10 Q What is your opinion of that firm?

11 A I think it's a good firm. We have worked with them on  
12 several projects and I feel comfortable about them as a  
13 company.

14 Q Now in your pre-filed testimony, Haley & Aldrich had  
15 submitted issues of concern which, as I understand it,  
16 have been resolved during the course of these hearings.

17 A Yes. That's correct.

18 Q Would one of those issues include ground heave, or  
19 testing for ground heave?

20 A Yes.

21 Q Based upon the agreements that were reached and  
22 testified to yesterday, is Haley & Aldrich now satisfied  
23 with the, not only the standard or the criteria that's  
24 been put in place, that is one inch at the testing, and

1           also that they are going to test for every blast for  
2           ground heave?

3       A     Yes, I am.

4       Q     With respect to the issue of water well pre and post  
5           blast inspections as, again, was discussed yesterday,  
6           are you now satisfied that they will be implementing  
7           procedures that are appropriate for this project?

8       A     Yes. As I understand it, the disagreement was in the  
9           post blast monitoring of wells and, as I understand it,  
10          that they agreed to do post blast monitoring of all the  
11          wells for which they do the pre blast monitoring.

12      Q     Relative to an independent state inspector, are you in  
13          agreement with the arrangement that has been brought to  
14          this Committee and has been testified to?

15      A     Yes. As I understand it, there will be review on behalf  
16          of the state of the blast plan as well as receipt of the  
17          monitoring data as the project proceeds.

18      Q     Would you indicate for the Committee why you felt that  
19          was a critical issue as it relates to this project or  
20          any project?

21      A     I think it is important for any project, and in  
22          particular this one because of the nature of the  
23          blasting so close to the pipeline, it's going to be  
24          really important that a good, sound blast plan be

1 implemented, be put in place with some thought given to  
2 it. And I think the issue and review of another expert  
3 would be of benefit to make sure they get it right the  
4 first time, basically.

5 Q And lastly, relative to the issue of the pre and post  
6 blast surveys, originally Haley & Aldrich had submitted  
7 in their pre-filed testimony a limit of 300 or a minimum  
8 limit of 300 feet for all blast sites. Do you continue  
9 to maintain that position?

10 A No. Since the company has agreed to implement a peak  
11 particle velocity limit of four inches per second at the  
12 pipeline, we agree with the expert, Mr. Kretschmer, that  
13 given that they hold that four inches per second limit  
14 at the pipeline, which is only 10 or 15 feet away, the  
15 vibrations at any homes at a distance of 200 feet would  
16 be extremely low. So for that reason we are now in  
17 agreement that as long as they maintain that four inch  
18 per second limit at the pipeline that the pre blast  
19 surveys to 200 feet is appropriate for the project.  
20 And, as I also understand it, in those areas where the  
21 pipeline does not exist at a distance of 10 or 15 feet  
22 away, they will continue to maintain that peak particle  
23 velocity limit of four inches per second at 15 foot  
24 distance and that will also satisfy our concerns. So we



1 by the state?

2 Q Correct. In other words, would you put any limitations  
3 on the ability of an independent State Inspector to  
4 supplement, should the State Inspector have concerns  
5 with regard to the results that they are provided with  
6 as a consequence of being provided with information in  
7 the reports that they receive from Tennessee Gas?

8 A I'm still not sure. I guess the intent of the review  
9 would be that everybody in the review process -- well,  
10 let me step back. A submittal would be included by the  
11 blasting contractor. He would indicate the intended  
12 spacing, loading and all of the particulars of the blast  
13 ground, the typical blast ground for the project. And  
14 the review purpose would be to basically, with the  
15 experience of the reviewers, would be brought there to  
16 check to make sure that the loading, spacing of holes,  
17 delay sequence, and all is appropriate for the blasting  
18 and estimates of peak particle velocity, heave and all  
19 those things are appropriate. So the State Inspector,  
20 in the review process, would have to feel comfortable  
21 about all those parameters along with the review by the  
22 experts for Tennessee Gas. And all parties would agree  
23 that it's an appropriate design, will sign off, and then  
24 the blasting will go forward.

1 Q And if the inspector became concerned during the course  
2 of blasting that the original specified conditions were  
3 not sufficient would you put any limitations on the  
4 inspector's ability to recommend to Tennessee Gas that  
5 that be modified?

6 A I think as things go along, as he receives the  
7 information, if he sees things that he doesn't like he  
8 should pass his concerns along to Tennessee Gas, yes.

9 Q And would those be binding on Tennessee Gas to modify  
10 their procedure for blasting, in your recommendation if  
11 there were safety concerns associated with that?

12 A Well, I think if there were safety concerns, I think  
13 that Tennessee Gas would definitely take appropriate  
14 action.

15 Q I don't have any further questions at this time.

16 CHAIR: Members of the  
17 Committee?

18 **EXAMINATION BY ATTORNEY M. IACOPINO:**

19 Q The report filed by your company is a geotechnical peer  
20 review. Were you involved in all aspects of preparation  
21 of that report?

22 A I was involved in preparation of only those aspects  
23 dealing with the drilling and blasting.

24 Q Does that include the recommendation that test borings

1 be conducted on each side of the proposed intermediate  
2 water body crossings?

3 A No.

4 Q Somebody else from your company would speak to that?

5 A Yes.

6 Q I have no further questions.

7 ATTORNEY WAGELING: With the Committee's  
8 permission may this witness be excused from the hearing  
9 then?

10 CHAIR: Yes. Did you have  
11 another witness or will you go back to the Applicant?

12 ATTORNEY WAGELING: That was my  
13 understanding, thank you.

14 ATTORNEY ARNOLD: We're going to proceed  
15 with our Water Panel, Mr. Chairman, so I would call John  
16 Auriemma and Roger Treddle to join me.

17 **JOHN AURIEMMA & ROGER TREDDLE**

18 having been duly sworn by Attorney V. Iacopino

19 was examined and testified as follows:

20 **DIRECT EXAMINATION BY ATTORNEY ARNOLD:**

21 Q Mr. Auriemma, we're going to begin with you. Would you  
22 please state your full name for the Committee and give  
23 your business address.

24 A Good morning to you all. My full name is John Auriemma,

1 business address is 1001 Louisiana Street, Houston,  
2 Texas.

3 Q Can you briefly describe for the Committee what your  
4 educational and work background is.

5 A Yes. I have a bachelor's degree in geography from  
6 Rutger's University, a master's degree in urban affairs  
7 from Boston University. I've been involved with natural  
8 gas facility construction for over 11 years.

9 Q How long have you been employed with Tennessee Gas?

10 A That's somewhat of a tricky question or a tricky answer  
11 -- I was a consultant for Tennessee Gas commencing in  
12 1990. I became a direct contract employee in 1994. I  
13 became a direct employee in 1998. So I'm full 11 years.

14 Q In terms of the project that's before the Committee  
15 during this process, can you describe what your role and  
16 responsibilities are?

17 A My responsibility on the project is acting in the  
18 capacity of the principal environmental coordinator.  
19 I'm responsible for all environmental activities as they  
20 are related to the project. I deal with the engineering  
21 right-of-way groups. I oversee and manage everything  
22 that has any relationship to the environment.

23 Q Does Tennessee Gas have an overall environmental mission  
24 statement that they try to comply with?

1 A Yes, we do. In short, we basically have a zero  
2 tolerance environmental mission statement or corporate  
3 policy. On every project our approach is for zero  
4 noncompliance. There's an incentive built in for  
5 employee benefit sharing with respect to all involved.  
6 We approach every project with the strictest sensitivity  
7 towards the environment. We make everyone responsible  
8 to be compliant with the environment. All the  
9 conditions, the permit conditions, all our techniques,  
10 all the inspectors, the full inspection staff. We do  
11 have an environmental inspector out on the project.  
12 Their sole responsibility is to maintain environmental  
13 control and compliance on the project. However, all of  
14 our inspectors, everyone involved all the way up the  
15 corporate ladder back to Houston is fully responsible  
16 for protection of the environment.

17 Q Thank you. I'd like to take a moment and show you some  
18 of the pre-filed testimony and supplemental pre-filed  
19 testimony that has been submitted in this case and I  
20 refer you initially to the Applicant's Exhibit #12 and  
21 just show you briefly the segment at page 15, your  
22 direct pre-filed testimony. And was this prepared under  
23 your direction?

24 A Yes, it was.

1 Q And is it true and accurate to the best of your belief?

2 A Yes, it is.

3 Q Do you have any changes that need to be made to this

4 testimony?

5 A Yes, I do.

6 Q And will be testifying to that during the course of this

7 proceeding?

8 A That's correct.

9 Q But you adopt it as your testimony here today?

10 A Yes, I do.

11 Q I'd like to also refer you to the Applicant's Exhibit

12 #68 which is your supplemental direct pre-filed

13 testimony. And was that also prepared under your review

14 and direction?

15 A Yes, it was.

16 Q And it's true and accurate to the best of your belief?

17 A Yes, it is.

18 Q And you adopt it before this Committee today?

19 A I do.

20 Q Finally, let me show you pre-filed testimony, direct

21 pre-filed testimony of Ricardo Lopez. This is contained

22 in Applicant's Exhibit #12 at page 28. But specifically

23 I would like to refer you to page 33 of that testimony

24 which deals with areas regarding environmental issues,

1 sensitive species and historical landmarks. Was this  
2 information prepared under your review and direction?

3 A Yes, it was.

4 Q Is it true and accurate to the best of your information  
5 and belief?

6 A Yes, it is.

7 Q And is it your understanding that it may have  
8 inadvertently been placed in Mr. Lopez's direct pre-  
9 filed testimony as opposed to yours?

10 A That is my understanding.

11 Q So you would adopt it here today before this Committee?

12 A Yes, I do.

13 Q Thank you. Now the testimony that you wish to  
14 supplement today before this Committee, can you tell us  
15 generally what issues that relates to?

16 A It would relate in general to the water body crossings  
17 and other environmental issues related to the  
18 construction of the project.

19 Q Can you, just briefly, to put this in perspective, can  
20 you describe for the Committee the environmental, the  
21 review of environmental resources and mitigation that  
22 has been conducted by Tennessee Gas as regards to this  
23 project?

24 A Yes. Initially the project was conceived in 1998. We

1 actually began our environmental review and  
2 consideration and assessment right at that time. To  
3 prepare for the filing for the Federal Energy Regulatory  
4 Commission we conducted field surveys. We did paper  
5 studies. We looked at maps. We looked at the route.  
6 We pulled together information for what's called the  
7 environmental report that gets filed with FERC and that  
8 has 13 resource reports associated with it. They cover  
9 project descriptions, water quality, vegetation and  
10 wildlife, cultural resources, socio economics, geology,  
11 soils, land use, air and noise issues, alternatives,  
12 reliability and safety. PCB and LNG facilities. Which,  
13 of course, are not related to this project.

14 Q Let me just show you briefly two exhibits. One is  
15 Applicant's A-59 and the other is Applicant's A-76. The  
16 first, could you describe for the Committee what that is  
17 and what its significance is in terms of review of  
18 environmental issues by Tennessee Gas?

19 A Yes. That exhibit had to do with -- as with this  
20 process which is very comprehensive also, we received  
21 data requests from the FERC. The exhibit pertains to  
22 the data request relating to the alternative studies.  
23 FERC requested us to look at alternative areas,  
24 alternative systems. That response does deal with

1 looking at alternatives in the field. We actually had  
2 a site visit with the FERC to determine that these  
3 alternatives as we described in that response were not  
4 feasible as compared to the preferred route which is to  
5 remain in the same ditch.

6 Q Do you know approximately how many alternatives were  
7 examined by Tennessee Gas?

8 A I think roughly, we looked at anywhere from six or eight  
9 to maybe up to ten alternative areas.

10 Q And in terms of the Applicant's Exhibit #76, can you  
11 briefly describe what that document is and its  
12 significance to this project?

13 A Yes. That exhibit is the draft environmental assessment  
14 that the FERC produces. Again, we produce an  
15 environmental report, the FERC will take that  
16 information and conduct their own investigations and  
17 their own site visits and they produce what is called  
18 the environmental assessment. Now the environmental  
19 assessment is still in draft form but it does have  
20 recommendations within it that will start leading us  
21 towards a direction as to where or what we are going to  
22 have to comply with. It's fully comprehensive. It will  
23 apply to the same set of resources that I've just  
24 described in the environmental report.

1 Q Thank you. Now specifically, in terms of dealing with  
2 the State of New Hampshire on this project and  
3 environmental issues, primarily ones related to water  
4 body crossings, did you have the opportunity to review  
5 draft conditions that were put together by the Water  
6 Division on August 29<sup>th</sup> of this year?

7 A Yes, I did. Very thoroughly.

8 Q Did you participate in a response to those conditions?

9 A Yes, I did.

10 Q Let me show you Applicant's Exhibit 62. Can you tell us  
11 what that is?

12 A Exhibit #62 does pertain to our responses, whether it be  
13 acceptance, recommendation for revision to the draft  
14 conditions.

15 Q How many -- I guess in terms of the draft conditions  
16 that were proposed to Tennessee Gas, can you give us an  
17 overview of how many of those were acceptable to  
18 Tennessee and how many are still areas where there is a  
19 disagreement?

20 A The overwhelming majority of the permit conditions were  
21 acceptable to Tennessee. They are normal in the course  
22 of construction for a project as such. We do have some  
23 concerns with respect to possibly six or seven of the  
24 conditions.

1 Q Why don't we talk specifically about those issues of  
2 concern that remain in your understanding. And for ease  
3 of the Committee we'll be working off of Exhibit 62,  
4 which is the responses, but also includes the draft  
5 conditions so it's probably the easiest document to  
6 reference. The first issue that I'd like to address  
7 with you is the recommendation regarding, or the  
8 proposed condition regarding topsoil segregation which  
9 is a site specific condition proposed by the Water  
10 Division and it's #A-8 in the draft conditions. Can you  
11 generally explain to the Committee what the proposal was  
12 by the state?

13 A Yes. The proposal by the state in not so many words is  
14 basically to segregate topsoil in all areas. Now 'all'  
15 is a very broad term. We consider 'all' to mean every  
16 disturbed area of the project. Normally under FERC  
17 guideline and as recognized and approved by other  
18 jurisdictions, not only within this state but in other  
19 states that we conduct our business in, that topsoil  
20 segregation occurs in wetland areas and agricultural  
21 areas. 'All' to us is now meaning those areas which are  
22 non wetland and non agricultural.

23 Q Can you explain, in your view, what the significance is  
24 of topsoil segregation and how that relates to what

1 Tennessee has proposed to the state?

2 A The significance of the topsoil segregation,  
3 particularly in a wetland area, is to preserve the seed  
4 bed that is there and exists naturally. We would like  
5 the wetlands to return back to a natural state when we  
6 complete our construction. Agricultural areas, we just  
7 consider it someone's livelihood. We'll strip the  
8 topsoil there. The issue we're having is in doing it in  
9 all areas, and having limited work room on the project  
10 we will have to reassess the amount of work room we  
11 have requested to segregate topsoil in all areas could  
12 be considered inefficient to the flow of construction.  
13 If we need more work room to store the topsoil, to  
14 preserve it during construction, it's now going to  
15 impact possibly new areas to the environment, new  
16 landowners, which may not be involved currently with the  
17 project. Our proposal is to basically segregate the  
18 topsoil along the entire project within the ditch line  
19 area, in those areas other than wetland and  
20 agricultural.

21 Q Okay. Generally in the industry and under other  
22 regulatory provisions, what is the practice regarding  
23 segregation of topsoil?

24 A Again, the practice of segregating topsoil seem to apply

1           only to wetland and agricultural areas for the reasons  
2           I just described. The common practice and is recognized  
3           by other jurisdictions that the upland areas -- we have  
4           to restore the project in full, when we are completed.  
5           Every area has to be revegetated. It's just not common  
6           practice, or we don't feel a need to segregate the  
7           topsoil in upland areas.

8       Q     Are there any safety considerations that weigh into the  
9           proposed condition that you've recommended to DES?

10      A     There could be safety considerations by way of -- again,  
11           if in segregating the topsoil requires extra work room  
12           and that extra work room is either not available due to  
13           development along our project corridor, or not granted  
14           by an agency, you're not constricting our work area.  
15           You're starting to confine us within the right-of-way,  
16           the corridor. It gets very crowded out there with  
17           equipment, with personnel, with inspection trucks, with  
18           welding equipment. When you become very congested it  
19           creates an unsafe atmosphere that we try to avoid.

20      Q     And was it your testimony that in the past when work has  
21           been done within this right-of-way, the area revegetated  
22           through replacement or segregation of topsoil in a  
23           manner that was comparable to what you're proposing  
24           here?

1 A Yes, it is.

2 Q So in your opinion is there any additional environmental  
3 impact or benefit that would result from segregating all  
4 topsoil as opposed to segregation of topsoil in  
5 agricultural wetlands and ditch line areas as proposed?

6 A We feel for the effort involved the benefit is minimal.

7 Q Let's move to the next issue which is the methods and  
8 procedures for disposal of trench water, which is at  
9 site specific or section A9. Can you briefly explain  
10 the proposed condition and what it seeks to address?

11 A The proposed condition, again, in not so many words, is  
12 for the trench water not to violate the water quality  
13 standards of the state. Disposal trench water  
14 discharge. What we do is commonly practiced. FERC  
15 recognizes it as a proven method. Our method of  
16 discharge is to, of course, minimize the amount of  
17 sediment within the discharge. To minimize the amount of  
18 sediment that can find its way back to surface waters of  
19 the state, we have proven procedures in place. This is  
20 what we've recommended. This is what we've done on  
21 every project. This is what is recognized by other  
22 jurisdictions. The condition as proposed has been  
23 discussed with some members of the DES staff, can become  
24 a little extreme. It has been recommended to us to

1 possibly dig sumps out on the right-of-way, where you  
2 basically dig a pit and you discharge the water into it  
3 and just let it percolate back into the ground. Again,  
4 it dwells upon the work space issue. It's also another  
5 safety issue. We have an open trench along the right-  
6 of-way and we'd like to just minimize the amount of open  
7 territory with respect to open ground to just  
8 maintaining the trench area. If we start setting sumps  
9 up along the right-of-way in other areas you're now  
10 having two areas of excavation within the right-of-way,  
11 people have to start meandering around those. It could  
12 disrupt the flow of construction. It will create an  
13 unsafe condition as we see it. Now what we've proposed  
14 and we would like to work it out in the field with the  
15 environmental inspector, not only Tennessee's  
16 environmental inspector but the representative of the  
17 DES. We have other methods that could be applied to the  
18 project beyond what our normal methods are.

19 Q Let's talk for a second about the normal methods or just  
20 to give the Committee an idea of what we're talking  
21 about. I don't know how familiar all the members are  
22 with the type of methodology that goes on but let me  
23 show you a couple of photographs which we've marked as  
24 Exhibit #65. I have copies to pass around to Committee

1 members and Counsel. Maybe just in the meantime you  
2 could hold this up so people can see as they're getting  
3 their copies and just generally describe what it is you  
4 propose to do and why Tennessee believes that this is an  
5 adequate measure to protect water quality.

6 ATTORNEY ROCHWARG: Can I just ask that  
7 before he discusses what's in the photograph, I just  
8 want to take a look at what's in the photograph if I can  
9 look along as he describes it. Thank you. These are  
10 new photographs, compared to what was previously  
11 provided, is that it?

12 ATTORNEY ARNOLD: Yes.

13 MR. CANNATA: Again, I'm sorry, this  
14 was Exhibit?

15 ATTORNEY ARNOLD: #65.

16

17 A What you see in the photograph and again, I'm looking at  
18 the one with the hay bale setup which looks like it's in  
19 an agricultural area. What you see in the photograph is  
20 somewhat of our typical setup. This is even a little  
21 beyond what we would do, but what we have is water in  
22 the trench, and what we like to do is clear that water  
23 out of the trench so we can look at the bottom to make  
24 sure that we're not laying the pipe, as the engineers

1 discussed, laying the pipe in an environment that would  
2 not be conducive to having the pipe safely installed in  
3 the trench. We'll have to pump this trench water out.  
4 Now of course, we don't like to pump it directly on the  
5 right-of-way. We try to keep our construction areas as  
6 dry as possible. We'll set this up. Now again, we'll  
7 call this a sump for sake of argument as compared to the  
8 sump I just described that was done through excavation.  
9 We like to set this up adjacent to the right-of-way.  
10 The environmental inspector is principally responsible  
11 for determining the best area for this. And what it  
12 does is, we'll put an intake hose into that trench and  
13 the trench water will suspend it. If you don't suspend  
14 it, what you end up getting is, you're not only sucking  
15 up the water out of the trench but you're pulling  
16 sediment with it. So that's one way to initially  
17 minimize how much sediment you'll have in the trench  
18 water as being discharged. The discharge hose will be  
19 routed to an area as such and we'll set this up for two  
20 reasons. The first reason is to minimize or dissipate  
21 the water as it's being discharged out of the hose. We  
22 don't like to just put this water as it's discharging  
23 out onto bare soil or directly into a water body or a  
24 wetlands. We'll put it into a setup as such. We'll set

1           it with hay bales and/or silt fence. That acts as not  
2           only a filtration device but a dissipater again. What  
3           you see in the middle of the sump is a filter bag. What  
4           that does, it's almost like the way your vacuum works  
5           with a bag in your vacuum. It's going to collect as  
6           much sediment as possible.

7                     Now again, when we do this type of setup, our  
8           intent is to minimize the amount of turbidity, the  
9           amount of sediment in the water. It does not remove it  
10          fully. It will minimize it. And what we'll rely on is  
11          as this water dissipates out of the sump area, it will  
12          go into a well vegetated area and Mother Nature will  
13          take its course and by the time it could work its way  
14          back to a water body, it's principally under FERC terms,  
15          it's not heavily silt laden water. That's how FERC  
16          describes it. We do not directly discharge this into a  
17          water body or wetland. We will maximize the dissipation  
18          and minimize the amount of sediment that could possibly  
19          reach the surface water. But again, it doesn't remove  
20          it in full.

21    Q    Can it be removed in full?

22    A    From all my experience, it cannot be removed in full.  
23          Particularly when you deal with fine sediments. It's  
24          just very difficult.

1 Q So in your opinion then the methodologies that are being  
2 proposed by Tennessee Gas maximize the ability to remove  
3 the sediment before the water makes its way back to the  
4 wetland area or the water crossing?

5 A Yes, it does. The combined approach of using something  
6 as such in this photo as well as the other photo, the  
7 other photo is a very similar setup. Again, it's  
8 adjacent to the work area. We do not like working in a  
9 muddy environment. It only creates a safety and a  
10 greater environmental impact. We like to keep the water  
11 off the right-of-way. It's the same type setup. You  
12 see a filter bag in the center. We have the hay bales  
13 and the silt fence setup for dissipation and filtration  
14 and location is also a consideration when you lay these  
15 out in the field. We try to keep them at a maximum  
16 distance from water body or wetlands. If you're within  
17 an extended length of a wetland, you know, we've been  
18 involved with wetlands up to a half mile long. You're  
19 not going to route the hose out of the wetlands. What  
20 you're going to do is set this up to minimize the amount  
21 of sediment laden water, again as described within the  
22 industry and by the FERC, that will reach the natural  
23 environment.

24 Q Is my understanding correct that Tennessee is proposing

1 to deal with these sites on a site by site basis in  
2 conjunction with the environmental inspector?

3 A That's correct.

4 Q I believe you had testified that in addition to some of  
5 the more ordinary methods that there were other  
6 alternatives that you were proposing above and beyond  
7 those as well, to deal with this issue?

8 A Yes, we were. Again, what you see in these photos in  
9 the exhibit, this is our normal procedure. Even some of  
10 this is maximized. There are times when we may not need  
11 the filter bag. There are times when just the hay bales  
12 and/or silt fence will act accordingly to produce that  
13 end result that we desire. What we also propose, which  
14 is actually very older method that for some reason got  
15 away from the industry is what we like to call a shower  
16 method, for layman's terms. And basically it's taking  
17 that hose and having someone there and you basically  
18 spray it up into the air into the vegetation and let it  
19 come down like rain water. That actually has minimal  
20 impact. It will act in the same manner as what is shown  
21 in these photos. It's just coming down like rain water  
22 as compared to being discharged in one solid location.

23 Q Thank you. Is there anything in addition that you would  
24 like to add on that issue?

1 A One other thing I'd like to add on the issue is when we  
2 set these types of things up, they're monitored. We'll  
3 monitor the discharge. We'll monitor the suction. And  
4 we'll make sure that someone maintains that suction  
5 hose, again, up out of the sediment and into the body of  
6 the water that we would like to discharge. We'll have  
7 someone monitor the discharge end. If it does become  
8 somewhat of an increasing concern to us we'll stop the  
9 activity and we'll rearrange things and rework it and  
10 put it back to the way that we would like it to work.

11 Q And in fact, that acknowledgment of the willingness to  
12 monitor and to stop activity if it causes an undue  
13 concern is outlined in your environmental construction  
14 plan which has been submitted to the State as part of  
15 this proceeding?

16 A That is correct.

17 Q Let's move to the next issue, which I believe it deals  
18 with crossings of surface waters and streams in the dry  
19 which was site specific proposed condition, draft  
20 condition A-12, prepared by DES. Can you just give us  
21 a basic wet and dry crossing, kind of 101, so that  
22 people will understand what we're talking about?

23 A Yes. Of course, and we apologize, these are all industry  
24 slang terms, if you want to call it that. A wet

1 crossing is basically as stated. The water will be  
2 flowing through the job site. And any time we try to  
3 apply these procedures we try to take into consideration  
4 many factors on the technique that we would like to  
5 apply in a particular crossing. The water body crossing  
6 technique we call Water Body Crossing Method One, is the  
7 wet crossing. And in essence the trench is excavated  
8 and the pipe is installed as the water is flowing across  
9 the job site.

10 Q Let me just stop you for one second, because I do have  
11 some sample photographs we should probably get around to  
12 the Committee which is also, they're all at Exhibit #65.  
13 But the three you'll get, some are wet and some are dry  
14 so we'll just pass them out at one time.

15 ATTORNEY M. IACOPINO: Will these be  
16 additional sub-exhibits in Exhibit #65?

17 ATTORNEY ARNOLD: I haven't broken them  
18 out. If the Committee would prefer us to do that,  
19 that's fine.

20 ATTORNEY M. IACOPINO: Just your list has two  
21 photographs listed on it.

22 ATTORNEY ARNOLD: Oh it does. You're  
23 right. I apologize. They are by trench, they are by  
24 the two specific issues. But if you want to delineate

1           it further so that that will be clear for the record we  
2           can do that. I was thinking ahead further. Can we  
3           begin? Is everybody about set?

4    A       The one photo I'm discussing has the backhoe, the arm  
5           of which is working within the water.

6                   CHAIR:                                What's the number of  
7           these?

8                   ATTORNEY ARNOLD:                 It's Exhibit #65

9                   CHAIR:                                Still part of #65?

10                  ATTORNEY ARNOLD:                 Yes, Sub 2.

11                  ATTORNEY M. IACOPINO:             Sub 1.

12                  ATTORNEY ARNOLD:             Sub 1? Thank you.  
13           It's probably marked on them. Lessons learned.

14    A       The photograph I'm working from shows two backhoes  
15           working from each bank in the water body. Within the  
16           wet crossing technique as described, as you can see in  
17           the photo, the backhoes work right within the wet. The  
18           trench is excavated in the wet, as we say. The backhoes  
19           will operate from the banks. They will not operate in  
20           the water body itself which is a very important point to  
21           make.

22                  ATTORNEY M. IACOPINO:             This is wetland  
23           crossing type number 1?

24    A       This is water body crossing Method 1. Numeric #1.

1                   ATTORNEY BROCKWAY:                   Excuse me. I'm still  
2                   confused which one is which. Is this the one with no  
3                   vegetation in it?

4       A       That's correct.

5                   ATTORNEY ROCHWARG:                   For purposes of these  
6                   photographs, these, as I understand it, are just to  
7                   describe the techniques, not project specific  
8                   conditions?

9                   ATTORNEY ARNOLD:                   Exactly.

10       A       Correct. It's just a visual aid to give you a better  
11               feel for what I'm trying to describe. Again, the  
12               backhoes will operate from each bank of the water body.  
13               Depending on the width of a smaller water body, maybe  
14               they'll just use one backhoe from one side. As you can  
15               see in this photograph it's more sizable. We'll place  
16               a backhoe on each bank. They will both excavate  
17               simultaneously from the center back to the banks.  
18               They'll excavate the trench within the water itself.  
19               Spoils are placed away from the water body. It is not  
20               placed within the water body. It's not side cast, as we  
21               say. It will be excavated to the proper depth. That  
22               depth will be checked very quickly. What we do is bring  
23               the section of pipe in, install it within that water  
24               body and the trench is back filled. It's a very simple

1 description of our wet crossing technique.

2 Q And just so we can put this, I guess, in a certain  
3 amount of perspective, can you tell the Committee of all  
4 the crossings that are proposed, how many are proposed  
5 to be done in the dry and in the wet? How many are we  
6 talking about at issue here?

7 A Out of a total of 37 water body crossings, we have  
8 proposed seven to be done in this manner.

9 Q And the remaining ones you've agreed to conduct in the  
10 dry?

11 A That's correct.

12 Q What's the reason for requesting that seven of the 37 be  
13 performed in the wet?

14 A Again there are a multitude of factors that we consider  
15 when we come upon a resource as such and we determine  
16 how to cross it. One of the reasons why we're proposing  
17 a wet crossing in certain stream areas is because we  
18 feel due to the size, the configuration, the volume of  
19 flow, the type of substrate or soils involved within  
20 that water system, that a dry crossing is going to be  
21 very difficult. Nearly infeasible. Then we have other  
22 areas where we have a combined system where we have a  
23 wetland complex with a stream within it. And some of  
24 these wetland crossing techniques, which I'll get into

1           soon, involve the necessity of a wet crossing just  
2           because of the technique that we'll apply to the  
3           wetland. What you end up doing is influencing the  
4           technique that is applied to the water body itself  
5           within that wetland system.

6    Q    Can you -- Let me refer you to the other photographs  
7           which we've handed out to the Committee and maybe just  
8           take a minute and describe for them exactly what those  
9           are and how those are used.

10   A    If you look at the first of the two photographs and this  
11           is basically just a description of the same technique.  
12           The first of the two with the backhoes, this is what we  
13           call a dry crossing technique. This is our water body  
14           crossing method #2A. #2A in simple terms is a flumed  
15           crossing. What we do as you can see here is it's done  
16           in the dry and again, don't let the water in the trench  
17           fool you, that could be ground water associated with the  
18           area. What we do is we'll place this flume pipe within  
19           the creek. It's the first thing that goes into the  
20           creek or water body. We'll channel the water through  
21           this flume pipe so we can excavate underneath it in the  
22           dry, as we call it. Again, it may take two backhoes.  
23           It could be just one. What that flume pipe does is  
24           carry the water through the entire installation period.

1           When we install the pipe underneath and as you can see  
2           in the next photograph without the equipment, when the  
3           pipeline gets installed underneath, we complete the  
4           crossing and put it back in order, that flume pipe is  
5           the last thing to be removed. It's basically a dry  
6           technique.

7    Q    In terms of the issues and the conditions under which  
8           you're proposing wet crossings at this project, can you  
9           explain for us what the potential safety issues or  
10          environmental impacts may be if you tried a dry crossing  
11          but it was unsuccessful?

12   A    Yes.    What we're dealing with on some of these wet  
13          crossings, we're on the threshold of the wet/dry  
14          approach and there are times when some of these  
15          crossings, when you try to do it in the dry you could be  
16          in that stream longer, which again will just create more  
17          issues at the site in terms of safety concerns  
18          particularly with 12 inch pipelines as being the looping  
19          part of the system, as we call it. What we like to do  
20          sometimes with these larger crossings is use the water  
21          itself within that water body, use it as back pressure  
22          against the trench walls as we're excavating. There are  
23          times that we have installed flume pipe and as we're  
24          trenching in the dry with a particular substrate or soil

1           like we do have at some of these crossings which is one  
2           of the reasons why we're proposing a wet crossing, the  
3           sides of that trench can just start sloughing off and  
4           caving in. And what happens is the width of the trench  
5           just continues to grow as we're trying to excavate  
6           through it. If that water is allowed, if we do a wet  
7           crossing and the water is within that trench it provides  
8           back pressure which actually holds the trench intact as  
9           we're excavating. That's one of the reasons why we  
10          propose a wet crossing. Again, another for the wet  
11          crossings on this project a few have that wetland  
12          technique applied. The other ones again are the flow of  
13          the water, the volume. Sometimes if you have too much  
14          volume or too rapid a flow, it's very difficult to  
15          channel all of that water through the flume pipe. You  
16          may have a meandering stream channel and our flume pipes  
17          are straight and if you can picture it, if you're trying  
18          to put a straight line within a circle or even a bell  
19          curve, it's just very difficult to do. It's also a time  
20          factor again. A wet crossing allows you to get in and  
21          out of that stream rapidly, get the pipe installed and  
22          commence restoration all within one day.

23        Q       And in terms of being able to do this kind of crossing  
24                quickly and get in and begin revegetation, does that

1 have an environmental benefit?

2 A It does have an environmental benefit. Through my  
3 experience what you're doing is just you're lessening  
4 the time that you're stirring up that water, suspending  
5 any sediment at the crossing, and the restoration  
6 quickly occurs within the same day. There are times in  
7 doing the flume method when you have that left  
8 overnight. And again in the dry manner while we're all  
9 gaining our energy for the next day's effort, that  
10 trench could be sloughing off. When we get back we have  
11 to begin excavation again. There are times that we've  
12 actually, the trench is widened so much that the flume  
13 pipe has just fell into the trench also. And a prime  
14 example, on a project we had in upstate New York in  
15 Plattsburg, we did try to work it out with the agencies  
16 in New York and we brought them out to the site. We  
17 recommended a wet crossing just for that same reason, to  
18 be in and out quickly. The soils were very similar.  
19 The configuration, the volume of water was very similar  
20 to some of the locations on this project we're proposing  
21 the wet crossing in. We ended up being in that crossing  
22 for roughly four days plus because we kept losing the  
23 seals on the flume pipe. When we install a flume pipe,  
24 in order to channel the water through it we seal it. We

1 normally use sandbag material so you can seal the water  
2 in to go through that pipe so that you have minimal  
3 leakage, if any, into the trench area. We were losing  
4 the seals. We lost the flume pipe. Eventually, when we  
5 did bring the state out on the fourth day after  
6 contacting them throughout the period, they gave us  
7 permission to open cut it. Within one day we were  
8 complete. The stream was restored. The banks were  
9 restored. We put down our mulch, our geo-thatching  
10 material which is like a hay blanket. And we walked  
11 away from that installation.

12 Q Are there any other specific examples or are there any  
13 representatives of Tennessee that are here in the  
14 audience that could speak to other experience with wet  
15 and dry crossing? Not today. Okay. Then we'll just do  
16 it with you.

17 Just so that I understand. The proposal by  
18 Tennessee then is to deal with the seven crossings at  
19 issue on a site specific basis, depending upon the  
20 conditions at the time of the crossing with the EI?

21 A That's correct. What we have in our most recent  
22 submittals to the DES and the agencies, the seven wet  
23 crossings along the project out of 37. I believe three  
24 of those are associated with that wetland technique that

1 basically mandates a wet crossing. There are four  
2 others where again, due to the volume of water, the  
3 flow, the conditions, the substrate, the time factor,  
4 that we're considering the wet crossing because we feel  
5 it's going to be a less impacting method.

6 Q And is it your opinion then, that the environmental  
7 impact of the proposed wet crossing under appropriate  
8 conditions would have greater environmental benefit than  
9 the proposed draft condition by DES?

10 A Yes, I do.

11 Q Mr. Auriemma, have you submitted to DES specific  
12 crossing plans for each of the proposed wet crossings?

13 A Yes, we have.

14 Q Let me just briefly refer you to the Applicant's Exhibit  
15 24 and 62 which are supplemental filing. Number one is  
16 #24 and response to draft conditions is A-62. Are your  
17 site specific plans included in those documents?

18 A Yes, they are.

19 Q Let me turn your attention to supplemental pre-filed  
20 testimony of Richard Stulgis, who is the expert of  
21 Public Counsel on some of these issues which is at  
22 Exhibit #44. And actually, I think what I really want to  
23 do is refer you to his direct pre-filed testimony, which  
24 is Exhibit #27 and specifically the discussion at

1 paragraph #10 which is on -- well, it's not numbered,  
2 but I think it's page 3. Could you just tell us what  
3 the Public Counsel's expert's recommendation is  
4 regarding wetland and water body crossings in the wet as  
5 proposed by Tennessee Gas?

6 A Yes. In short, the testimony does describe exactly our  
7 point, is that the duration as shortened within the  
8 water body does minimize the amount of turbidity at the  
9 crossing. It also minimizes the fluctuation of river  
10 stage that can occur herein for a longer period. So in  
11 essence they're agreeing with the get in and get out  
12 type of technique that we were describing.

13 Q Just as long as we're on that paragraph so that we don't  
14 need to go back, there's also a recommendation by Public  
15 Counsel's expert regarding backfilling as well. Has  
16 Tennessee come to an agreement with Public Counsel's  
17 expert on the amount of backfill and the nature of it  
18 that would be necessary?

19 A Yes, we have.

20 Q Can you briefly describe what that is for the Committee?

21 A Yes. Normally what we do as common practice, as also  
22 recognized by the FERC, at the cold water fishery type  
23 crossings and at crossings that are considered sensitive  
24 by other entities outside of FERC or state agencies,

1 even local agencies that we'll have to deal with, what  
2 we do is in the backfill of these water bodies is within  
3 the top one foot of the trench we will place a gravel  
4 compatible to that water system. What this does is help  
5 the trench settle in. It will minimize with the amount  
6 of flow coming across the trench area. It will minimize  
7 grabbing that loose sediment. It just minimizes any  
8 sort of release that could occur until the trench  
9 settles. What is being described to us, particularly at  
10 these certain water body crossings where we have the wet  
11 method, if approved, and the size, the intermediate  
12 water bodies, is to backfill the trench entirely with  
13 that type of gravel. We've agreed to do it in its  
14 entirety within these select locations. The difference  
15 being the one foot as compared to the trench in full.

16 Q Thank you. I'd like to turn your attention to site  
17 specific condition A-19 which deals with in stream  
18 drilling and blasting and if you would please explain  
19 the draft condition and Tennessee's position to the  
20 Committee.

21 A Yes. The draft condition is following along the lines  
22 of the crossing technique for the water body that all in  
23 stream drilling and blasting will be conducted in the  
24 dry as just described.

1 Q At how many locations does Tennessee propose to do that  
2 in the dry?

3 A We're proposing to conduct in-stream drilling and  
4 blasting, and again, at this point we're anticipating  
5 it's not necessary at all locations. But we wanted to  
6 conform to the approach of 30 of the 37 water bodies  
7 that we are going to conduct in a dry installation  
8 technique to conduct in-stream drilling and blasting as  
9 needed in the dry. The seven water bodies where we have  
10 the wet crossing technique approach, we would like to do  
11 in the wet. Basically conduct this activity in the wet  
12 as compared to the dry.

13 Q Can you explain how that works? What do you do when --  
14 what precautions are taken and what is -- how does it  
15 work when you do it in the wet?

16 A In the wet it's been my experience, we approach it in a  
17 sensitive manner. What we'll do is we'll apply blasting  
18 mats. It's a very controlled atmosphere. It's just  
19 like blasting anywhere along the pipeline. Very, very  
20 controlled. There's a plan in place. Everyone  
21 understands what has to be done. We'll put a blasting  
22 mat out into the water body to control any sort of shot  
23 rock. What we'll do is produce any type of scare  
24 charges. Now, in my personal opinion, and anyone who

1 fishes, when you go out fishing you're not supposed to  
2 talk. Apparently it scares the fish away. So you can  
3 imagine heavy equipment and people moving around and  
4 things being placed in the water, there won't be many  
5 fish left. However, we do conduct what we call a scare  
6 charge. It's just a very minimal charge, just to scare  
7 the fish out of the site. Whatever remaining -- however  
8 tough they are. What we'll do with the blasting mat,  
9 the blasting is very controlled. It's minimal. We'll  
10 conduct the blast and remove the blasting mat.  
11 Hopefully it's enough that we can just excavate the  
12 trench and we get back to our normal procedure.

13 Q When you blast and you have the blasting mat, I mean,  
14 what does it look like, is there -- I mean, I envision  
15 water spraying -- what does the mat do?

16 A There are several variations of blasting mats. The one  
17 that I have seen applied to this type of technique are  
18 just basically old used tires chained together. It  
19 creates a blasting mat. It basically just puts weight  
20 on the area where you're going to blast. You won't see  
21 a geyser like Old Faithful when the blast is conducted.  
22 It just maintains integrity to the system within the  
23 immediate area of where the blast is.

24 Q Just to summarize, can you describe why Tennessee

1 believes it may be necessary to do some of this drilling  
2 or blasting in the wet?

3 A Yes. There have been times when we have attempted to do  
4 blasting techniques in the dry, particularly with the  
5 dry flume technique. What ends up happening is that you  
6 may get some movement in that blasting mat. It may  
7 vibrate a little bit or such. What ends up happening it  
8 may knock the seal of the flume pipe or just move the  
9 flume pipe maybe an inch or so or even just the seal  
10 just gets lost and now you end up getting water into the  
11 trench. So it's basically like trying to fight what you  
12 initially tried to do in the first place, which is to  
13 conduct everything in the dry.

14 Q The Applicant's Exhibit #A-62 which is the Response to  
15 Draft Conditions that was filed on October 13<sup>th</sup>. In  
16 attachment #2 you have a preliminary list of water  
17 bodies potentially requiring in-stream drilling and  
18 blasting. Am I correct in understanding that you won't  
19 know whether it needs to be done in the wet or the dry  
20 until you get out there?

21 A That's correct. This list, again, is a preliminary list  
22 of where we anticipate blasting may be necessary. There  
23 are 12 water bodies within that list and until you get  
24 out there and start excavating you're still unsure as to

1 when you're going to require this blasting. We can prep  
2 for items like this and put a lot of time and effort as  
3 we have into it. We do a lot of investigations of  
4 existing data. But until you get out there and dig, we  
5 don't know. Now out of the 12 water bodies that are  
6 listed in that table, four are associated with the wet  
7 crossing technique.

8 Q And so essentially what you are seeking is the  
9 permission to do the drilling and blasting in the wet if  
10 conditions require it at the time you go out into the  
11 field?

12 A That is correct. The four locations again, to conform  
13 to our request for the wet installation technique.

14 Q Mr. Auriemma, let's look at site specific condition A-  
15 16, which deals with timber mat bridges over perennial  
16 or intermittent streams requiring a geo-textile diaper  
17 and construction over flume. Can you describe what the  
18 issue is regarding that condition?

19 A Yes. What the DES has proposed to us was in areas where  
20 we have to set up these type of equipment bridges as we  
21 call them, or access points, they are proposing that we  
22 install when we construct the bridge, to use a geo-  
23 textile diaper as they want to call it.

24 Q Let me just stop you for one second because I don't know

1           how much people know. I certainly didn't. Can you just  
2           explain what the timber mat bridges are and what geo-  
3           textile diapers are and then go from there?

4       A    Timber mat bridge is very simple. It's just used to  
5           span a water body crossing for access. The timber mat  
6           bridges come in various sizes. I've seen them five feet  
7           wide by maybe 18 to 20 feet long. They're made of  
8           sizable timber. Maybe 8 x 8. Just a bunch of 8 x 8  
9           timbers, rough cut, and bolted together with a binding  
10          strap that's actually used also to move the timber mats  
11          into place and withdraw them. We'll span them  
12          accordingly. The timber mat bridge, again, is one  
13          method of equipment access. Personally it's a preferred  
14          method of myself. It creates easier clean up although  
15          we do have flexibility in the field to apply different  
16          types of bridges. It's like any span or bridge that  
17          you'd see on a highway over a small water body. Now  
18          granted, we're not building them to the specs of the  
19          DOT. We're putting them in for permanent use during  
20          construction. We'll lay them side by side. We'll  
21          create side walls. We'll put catch walls on the side.  
22          We'll button them up close together. We maintain these  
23          bridges throughout heavy equipment crossing back and  
24          forth over them. It does need a daily maintenance. Any

1 mud that's tracked onto the bridges we would basically  
2 maintain it at the end of every day and remove it from  
3 it. Now, the geo-textile diaper, as recommended by  
4 the DES, what they would like us to do is put a diaper  
5 underneath this bridge to catch any inadvertent soil  
6 that may slip between the crevices because again, these  
7 mats are four to five feet wide. You need to put  
8 roughly three or four mats together to make the width of  
9 the crossing accessible for larger equipment. The geo-  
10 textile fabric, it's man made. It's like a plastic  
11 fabric. It's very similar to the silt fence type of  
12 material that we'll put at the edges of the right-of-way  
13 for erosion control.

14 Q And so Tennessee's issue with the draft condition is the  
15 requirement for the geo-textile diaper?

16 A That's correct. The intent of the geo-textile diaper,  
17 again, is to try and catch any minimal sediment that may  
18 find its way between the individual timber mats which  
19 comprise the overall bridge or access system. The  
20 amount of that material, as we maintain these equipment  
21 crossings daily, again we have these side barriers so  
22 nothing can fall off the sides of the bridge. We  
23 usually put in in very muddy areas, sometimes a gravel  
24 access area which can remove mud from tracks before it

1 becomes across the bridge. What I've seen throughout my  
2 experience, the amount of sediment that may find its way  
3 into the water body is possibly a bucket or two, at the  
4 most, over the course of several months. The geo-  
5 textile fabric as proposed by the DES would be to catch  
6 that one or two bucket of soil material.

7 The issue we have is, first off, the manner in  
8 which to maintain that geo-textile fabric and over time  
9 it becomes very brittle, it becomes like glass. The  
10 geo-textile fabric, what you're doing is introducing  
11 material into the water environment that's not there and  
12 it's very difficult to clean up in full.

13 Q What do you do with it when you're finished with it?

14 A Using geo-textile fabric in that manner, again, to avoid  
15 a negligible, what's considered a negligible impact, you  
16 now need to find a place to dispose of it. It just adds  
17 to the amount of construction debris for the project.  
18 So what you end up doing is impacting a third area which  
19 is not associated with the project but with disposal.

20 Q So then it's Tennessee's position that with the type of  
21 timber mat bridges that you use, the methods that you  
22 will adopt to maintain it as well as for dealing with  
23 your equipment prior to the time, over a wet area, that  
24 that should be sufficient to protect the environment

1 under the circumstances?

2 A That's correct. This is, again, a proven method that's  
3 recognized by the FERC and several other jurisdictions.  
4 It's a common industry practice and it's the practice of  
5 Tennessee Gas.

6 Q Let me direct your attention to dredge and fill  
7 condition B-32, which is a timing issue, as I understand  
8 it. It requires that wetlands impacts will be restored  
9 prior to September 1<sup>st</sup> of the year of construction. Can  
10 you just briefly describe what Tennessee has proposed  
11 and why?

12 A Yes. The conditions as stated is that all wetlands  
13 impacts will be restored prior to September 1<sup>st</sup> of the  
14 year of construction. In order to do that and  
15 particularly with other conditions within the draft  
16 permit that say that conditions allow for a construction  
17 season from April 1 to November 1. What you're now  
18 doing is cutting off the time frame of which we're  
19 allowed to be constructing and installing the pipeline.  
20 In order to do this, or conduct this type of activity,  
21 you're going to disrupt the normal flow of the  
22 installation of the project. In doing that, what you do  
23 is add time to the amount of effort that we have to put  
24 in to install the pipeline properly and safely. To

1 restore wetlands prior to September 1<sup>st</sup>, which is  
2 possible in some areas, we may be through some certain  
3 areas. We have a different condition within the permit  
4 that we've agreed to that we have 30 days to restore  
5 wetlands from a point of disturbance. We've agreed to  
6 that condition. We may not get to some wetland areas  
7 for the installation of the pipe before September 1<sup>st</sup>.  
8 But adhering to the 30 days condition, we'll have the  
9 right-of-way fully restored by November 1<sup>st</sup>.

10 Q So it's your intention then to restore all wetlands  
11 areas within the 30 days as requested by DES for each  
12 impact but what you would like is to be able to complete  
13 restoration of all the wetlands until the November 1<sup>st</sup>  
14 project deadline so that if there are wetlands at the  
15 tail end of the project, so to speak, you'll be  
16 restoring them within 30 days but that may not be by  
17 September 1<sup>st</sup> just because of timing?

18 A That's correct. Again, our intent is to fully restore  
19 the right-of-way prior to exiting for the winter season.  
20 This is our common practice. Again, this is recognized  
21 by other agencies. It is our goal and we are mandated  
22 to revegetate the right-of-way in a proper manner and it  
23 does have to do with restoration of wetlands. And we  
24 feel that having to do it prior to September 1 as

1 compared to November 1, again the benefit versus  
2 disrupting the flow of construction, the offset is not  
3 beneficial to Tennessee.

4 Q Finally Mr. Auriemma, the last draft condition I'm going  
5 to have you testify about is the water quality  
6 certification C-6. Would you -- first of all, does  
7 Tennessee generally agree with the condition as drafted  
8 by DES?

9 A Yes, we do.

10 Q And what is the area of disagreement that you have, or  
11 the issue that you have with the draft proposal?

12 A The draft proposal is a very extensive one, that I've  
13 fully recognized. It deals with turbidity and the issue  
14 of turbidity. Tennessee uses conditions to which we've  
15 agreed to in many parts, there is one issue that we have  
16 with the condition with respect to the monitoring of the  
17 turbidity. I know this was extensively applied in the  
18 past. Tennessee's interpretation of the condition and  
19 even the subject of turbidity, our interpretation is  
20 that this type of condition we see is normally applied  
21 to a point source discharge. A continuous point source  
22 discharge of some operating plant. As it's being  
23 applied to this project we can respect the position of  
24 the Committee and the DES. However, the one issue that

1 we have with the condition is with respect to the  
2 monitoring. The monitoring program as proposed as was  
3 previously implemented on a recent project is somewhat  
4 excessive. It created unsafe working environment, not  
5 only on the right-of-way, but off of the right-of-way.  
6 What the condition does for the monitoring is, it's  
7 requesting us to take several monitoring measurements  
8 for turbidity at each crossing as it's being conducted.  
9 Upwards of five or six throughout the period of the  
10 installation. What that created was unsafe environment.  
11 We had to have numerous people just for the monitoring  
12 program out on the right-of-way. When you put numerous  
13 people out on the right-of-way around heavy equipment  
14 you start setting up an unsafe environment. Not only  
15 that but to get from area, to point to point while each  
16 installation was being conducted simultaneously, they  
17 almost had to drive like the Domino's Pizza delivery  
18 person out there on the road to ensure that they made it  
19 to the next point within that time frame and be able to  
20 get the measurement within the water body.

21 Q I know we're going to move on to Mr. Marini and I guess  
22 I would just ask one final question of Mr. Auriemma and  
23 then pick up with Mr. Treddle after. Mr. Auriemma, just  
24 so I'm clear about this condition, Tennessee Gas agrees

1 to comply with the Section 401 water quality certificate  
2 and water quality standards established by the State of  
3 New Hampshire. Is that correct?

4 A Yes, we do. And as written in the condition, the  
5 creation of the mixing zones and how the water quality  
6 standards are met through that type of parameter, we  
7 agree with it. We feel it's fully capable on our part  
8 to do it. We have done it in the past. The issue we  
9 have at hand is with respect to the turbidity monitoring  
10 only.

11 Q We'll come back to that.

12 CHAIR: Thank you. As we  
13 discussed late yesterday, we will accommodate the  
14 schedule of one of the witnesses for Public Counsel.  
15 Michael?

16 ATTORNEY M. IACOPINO: Thank you, Mr.  
17 Chairman. For the record, I'd just like to point out  
18 that the next witness is Richard Marini, the New  
19 Hampshire Public Utility Commission's Safety Division  
20 Administrator. And we have him here as a witness called  
21 out of order for scheduling purposes. But he is here at  
22 the request of the Committee to be here because of his  
23 report and draft conditions which were issued involve  
24 very important issues in this case. Public Counsel is

1 going to lead off with questioning Mr. Marini but I just  
2 wanted the record to be clear that he's here at the  
3 request of Committee members so that we can address his  
4 report and draft conditions.

5 **RICHARD MARINI**

6 having been duly sworn by Attorney V. Iacopino

7 was examined and testified as follows:

8 **DIRECT EXAMINATION BY ATTORNEY WAGELING:**

9 Q Just to lay a bit of a foundation for the record, Mr.  
10 Marini, could you please state your full name and  
11 indicate where you are employed and provide us a bit of  
12 background relative to your work?

13 A My name is Richard Marini. I'm the administrator for  
14 the Safety Division for the Public Utilities Commission.  
15 I'm a graduate engineer with a bachelor's degree in  
16 mechanical engineering. I'm a registered professional  
17 engineer in the State of New Hampshire. My  
18 responsibilities at the Commission are enforcing and  
19 administering the pipeline safety law for the State of  
20 New Hampshire and also our Dig-Safe law. I've been in  
21 this as program manager for 20 odd years, I guess.

22 Prior to that I was a pipeline safety specialist  
23 for the National Transportation and Safety Board out of  
24 Washington D.C. I was one of two pipeline safety

1 specialists who investigated accidents similar to New  
2 Mexico and Edison and Bellingham and that was the type  
3 of work that we did at NTSB. Essentially we  
4 investigated accidents, determined probable cause, and  
5 made recommendations. Prior to that I was the Chief  
6 Engineer for a natural gas distribution company in the  
7 State of New Hampshire. I was there for over six years.

8 Q Are you familiar with the EFSEC process that's currently  
9 going on involving the Tennessee Gas Pipeline project?

10 A Yes, I am.

11 Q Have you ever testified before an EFSEC Committee?

12 A Yes, I have.

13 Q On what other occasions, if you could outline that for  
14 the record?

15 A Not too long ago within, I think, it was a year and a  
16 half to two years ago, we had another applicant in here  
17 that involved the running of a transmission line. It  
18 was a PNGTS-M&N pipeline that ran through southern New  
19 Hampshire and northern New Hampshire.

20 Q And were you extremely involved not only with the  
21 application process of that project but also in the  
22 ongoing project as it progressed through the field?

23 A Most certainly. I had given testimony before this  
24 Committee involving the safety issues and some of the

1 conditions that were brought up were adopted by the  
2 Committee. The Public Utilities Commission was granted  
3 a temporary interstate agent status from the Office of  
4 Pipeline Safety which allowed the Safety Division to  
5 inspect the construction of the pipeline in New  
6 Hampshire.

7 Q I'd like lay a bit of a foundation relative to the  
8 documents within this particular project. There is an  
9 exhibit list that's been provided to us. And just for  
10 the record I'd like to ask if you're familiar with these  
11 documents? It's my understanding that Exhibit #43 is  
12 the Public Utility Commission response to Public  
13 Counsel's data request. Are you familiar with that  
14 document?

15 A Yes.

16 Q Do you have that actually before you?

17 A Yes.

18 Q It's my understanding that Exhibit 60 and, actually all  
19 these exhibits have an "A" before them and I apologize  
20 for not noting that earlier. Exhibit A-60 is the Public  
21 Utility Commission Safety Report and Draft Permit  
22 Conditions dated August 29, 2000. Are you familiar with  
23 that document?

24 A Yes.

1 Q #A-62 is the Tennessee Gas Pipeline response to and  
2 actually it includes the DES report also. But it's the  
3 PUC Report and Draft Condition and that response is  
4 dated October 13, 2000?

5 A Yes.

6 Q Have you been present in the room for all of the  
7 testimony that's been presented?

8 A No, I haven't. I was here as of noontime on Monday and  
9 thereafter.

10 Q So you were here all of yesterday?

11 A Yes.

12 Q Would it be fair to say that you heard all of the  
13 testimony presented not only during the direct  
14 examination but also the cross-examination of the panel  
15 that was presented by Tennessee Gas Pipeline?

16 A During that time, yes.

17 Q I'd like to move on if we could to not only your report  
18 on draft conditions but also the responses provided.  
19 And just for the convenience of not only the witness but  
20 for the Committee I was going to move through them in  
21 the same order that they were presented in your original  
22 Report on Draft Conditions dated August 29<sup>th</sup> so that we  
23 can go through the subject matter in the same numerical  
24 order. Or the same sequence, I should say. The first

1 issue that was raised, as I understand it, in your draft  
2 conditions involved pipeline standards and  
3 specifications. Considering the condition that you had  
4 proposed and the response, what would you like to inform  
5 the Committee in terms of your position now that you've  
6 heard the response of Tennessee Gas?

7 A Well, as far as the pipeline specifications, one of the  
8 key ingredient to that was what we call pipe toughness.  
9 I haven't seen anything official outside of some prints  
10 that were given to me showing the pipeline installation  
11 along the right-of-way. At the bottom of the print it  
12 did say that they're using X65 pipe with a toughness of,  
13 if I remember right now, I think it's 42 pounds. The  
14 wall thickness is .380 and also .317 wall and I believe  
15 the toughness they were looking at was 42 foot pounds at  
16 23 degrees Fahrenheit. That's the only information that  
17 I have on the pipe. I know it's API5L. And that's been  
18 a standard for a long time. The API5L and 5LX. That's  
19 been around as long as I can remember, I guess. But it  
20 does have some specifications or standards that are part  
21 of that. But I would like to ask the Company if they  
22 would look into a new standard that really came out in  
23 July of this year. It's an industry standard that's  
24 also API but it's now called PSL-2, which the pipe is

1 readily available at the mill. It's available and it's  
2 not something extra that you have to order. But it does  
3 have tighter standards on the chemical and physical  
4 specifications of the pipe. I'm not saying that API5L  
5 or 5LX is not a good standard but when you have  
6 something coming out new like this that really adds more  
7 quality to the pipe I think it's something that's  
8 worthwhile looking into.

9 Another thing that I would like to see is probably  
10 the purchasing specifications on the pipe and that way  
11 there you can know exactly what the Company is ordering.  
12 We heard some testimony that the mill does all sorts of  
13 testing. Well, the mill will do whatever you pay to  
14 have done. It's my understanding that some of the  
15 quality mills, and there are several of them, will do a  
16 full body inspection of the pipe. Or they'll do  
17 nothing. So it's all determined on what the Company  
18 wants to get out of the mill.

19 Q Now in terms of, let's take it in a two step process.  
20 Number one, as I understand the testimony yesterday, we  
21 were, I believe, advised that the materials as it  
22 relates to the pipe were put out to bid. Did you hear  
23 that testimony yesterday?

24 A Yes.

1 Q Would you like to receive the specific information as it  
2 relates to that process?

3 A Well, yes.

4 Q Not so much the bid process but the materials that they  
5 are requesting that they are intending to use?

6 A Well yes, that's what I was referring to. Whatever  
7 those specifications, those purchasing specifications  
8 are, is what they are asking the mill to supply.

9 Q When would you like that information provided?

10 A Well, I would say as soon as possible.

11 Q Would you like for the Committee to request that  
12 information before the Certificate is issued?

13 A Definitely.

14 Q In terms of the inspection possibilities that would be  
15 allowed, not only at the site but at the mill that  
16 you've just discussed, are there any specific criteria  
17 you think the Committee should put into place in terms  
18 of the certificate process as it relates to that issue?

19 A As far as the purchasing of the pipe, you're talking  
20 about?

21 Q Yes, but also the process that Tennessee should require  
22 the mill to go through in terms of inspection.

23 A I'm going to answer that no, not necessarily. Like I  
24 said, the API5L and 5LX standards are a good standard.

1 That's something that they're meeting. That should give  
2 us some level of safety. I just mention this other  
3 standard because it's, as I mentioned, it's July of this  
4 year that it came out. The pipe is available and it  
5 just gives you a better handle, a better -- a more solid  
6 hold on what the specifications of that pipe are.

7 Q And when we're talking about pipeline specifications, I  
8 know we've just talked about toughness and the fact that  
9 you think the general line specification should be  
10 provided as soon as possible, certainly before the  
11 certificate is issued. What about the issue of the type  
12 of class of pipe that's going to be used in this  
13 project?

14 As I understand the testimony yesterday there was either  
15 an oversight on the part of some of us reviewing it or  
16 a change of position by Tennessee and they've agreed to  
17 change to a Class 3 pipe, I believe that the testimony  
18 was, within a 200 mile or it might have been a 300 mile  
19 radius -- sorry. I did the mile thing again, didn't I?  
20 I apologize. Actually I'm just trying to get it  
21 increased without them noticing it. (Laughter) It's  
22 not working, I guess. The 200 foot radius adjacent to  
23 any school property, not exclusive to structures. Are  
24 you satisfied with that? Is that correct? I'm sorry,

1 I don't mean to be misstating it into the record.

2 A I understand your question.

3 Q 300 okay. Thank you. 300 feet radius. Are you  
4 satisfied with that change or are there any other  
5 changes that you think should be implemented within the  
6 certificate process?

7 A I think that was an excellent move on the part of the  
8 company to do that. If you look at the federal regs,  
9 the language that's in there was set up with some level  
10 of safety. How minimum it is, that can be debated, I  
11 guess. But by increasing the safety factor as they did,  
12 gives us a greater level of comfort I think. I think  
13 that in this particular case, I think that was an  
14 excellent move.

15 Q Is there any other issue, as it relates to pipe  
16 specification, that you think needs to be addressed at  
17 this point during the EFSEC proceeding?

18 A Well, the only thing that I would be doing, when I get  
19 the, if I can get the purchasing specs on the pipe, is  
20 that I'm not a materials engineering nor do I want to  
21 be. I have a consultant in Washington who I work with  
22 who is a materials engineer, he works for the Office of  
23 Pipeline Safety. He helped me out during the PNGTS-M&N  
24 line and we dealt with a dozen material engineers and

1 lawyers too in looking at what's acceptable for pipe  
2 toughness for the State of New Hampshire. What I did in  
3 the case is because it got so technical that I said  
4 whatever this person in Washington says is good for New  
5 Hampshire then we will accept. And I would like to be  
6 able to take that information, the specifications that  
7 are needed, I'd like to take that and present that to  
8 him so that he can look at it and say, yes, they've  
9 covered all our bases. Then that would give me comfort  
10 also. And I do have documentation from OPS that I keep  
11 in my file that says that they've accepted this and that  
12 they have determined that this is a good level of  
13 safety.

14 Q Would it be fair to say then, that you would like the  
15 Committee to provide you with the authority through the  
16 certificate process to allow for that consultation prior  
17 to a certificate being issued?

18 A If that's necessary.

19 Q I thought that was just what you described?

20 A No, no. I mean if they would --

21 Q Work directly with your consultant?

22 A Yes.

23 Q Okay. Is there anything else relative to the pipe  
24 specifications that you would like to discuss during

1 your testimony?

2 A No. I'm pretty comfortable with what we have now.

3 Q Also, just for the record, just so that it's not  
4 unclear, other than the issues that you've just raised,  
5 are you satisfied with the information that has been  
6 provided from Tennessee Gas, not only with the  
7 information exchange but also with the standards that  
8 have been set, other than what we've discussed so far?

9 A Well, with what I've learned in the last couple of days  
10 and what I have I would have to say yes.

11 Q I'd like to move on to the trenching issue. I believe  
12 that was the next issue that you raised within your  
13 draft condition?

14 A Yes.

15 Q Again, I'm going back to the same line of questioning  
16 based upon the condition that you put forth in your  
17 August 29 document and the responses that have been  
18 provided not only in the October 13 written  
19 documentation but the testimony that you've heard thus  
20 far. Do you have any comments that you would like to  
21 provide to the Committee?

22 A Well, trenching is -- trenching and backfilling go  
23 together and that's probably the major portion of  
24 installing a pipe and giving that part of the pipeline

1 integrity. I think I heard the other day testimony that  
2 one of the Committee members said, "What do you do with  
3 all the rocks?" This is a concern when you are burying  
4 a pipe. You have to have some sort of protection on  
5 that pipe, especially for the coating and that is a  
6 concern. And I don't think I've seen any sort of  
7 specifications that says what size rocks would be  
8 acceptable for backfill.

9 Q I think there were some general comments provided to us  
10 yesterday.

11 A I haven't seen anything in writing. I can tell you that  
12 in my experience most recently with PNGTS-M&N, there are  
13 areas that they brought in a padding machine, which  
14 essentially sifts out the large rocks, you might say.  
15 It only allows a certain size backfill material to be  
16 around the pipe. That is a good way of going,  
17 especially when you're in an area that's been blasted --  
18 no, excuse me. In a place that you blast, you've really  
19 got to bring in some backfill material to protect it.  
20 But in other areas, using a padding machine really helps  
21 the process out. It moves along fast and it gives you  
22 that good protection that you need around the pipe.

23 Q Do you think it would be appropriate for you to be  
24 reviewing a more comprehensive plan with specifics as it

1 relates to their intention relative to that issue?

2 A I think it's very important to know how they are going  
3 to backfill the pipe.

4 Q Again, using the same line of questioning I have on the  
5 other specifics that we've addressed, do you think that  
6 that information should be provided and considered prior  
7 to a certificate being issued?

8 A What's the time frame for the certificate?

9 Q I think it's reasonably short after this hearing.

10 CHAIR: December.

11 Q Yes. December.

12 A If the Company can do it that fast, that would be good.

13 Q Well, let me ask you this then. Do you think that that  
14 information is anything that should hold up the  
15 certificate process? How critical is it in your mind  
16 that we receive that information prior to a certificate  
17 being issued?

18 A Well, that's a good question. I guess I'm going to have  
19 to say we should have all this information prior to  
20 because if we don't get it and we end up with statements  
21 from the Company that say we're going to allow 10 inch  
22 rock or six inch rock or whatever, that could be a  
23 problem. Then where do we go from there? So I guess  
24 this is information that we should have.

1 Q Are there any other comments that you would like to  
2 provide relative to the trenching issue that we haven't  
3 already addressed thus far?

4 A No. I'm all set with that.

5 Q Okay. I believe that the next item that you had  
6 addressed within your draft conditions were key valves.  
7 And I heard testimony I think not only from my  
8 questioning but through other questioning yesterday  
9 relative to the more specific information on the  
10 automatic valve closure process that Tennessee Gas  
11 intends to use. Are you satisfied that those types of  
12 valves are adequate for this project or do you maintain  
13 your position that remote valves should be implemented?

14 A Let me give you a little background there. When we did  
15 PNGTS-M&N I gave the company an option of either auto  
16 close valves or remote operated. They came back to me  
17 and said, "We don't like auto close. We want to go  
18 remote." They gave me a bunch of reasons why they should  
19 go that route. So essentially, when I came to this  
20 pipeline I said, "Okay, let's go with remote." But  
21 there's difference of philosophy amongst companies and  
22 the auto close will essentially do the same thing. One  
23 of the concerns I had, I think Mr. Cannata brought it up  
24 and that was some sort of redundancy in the operation of

1 the operator for the valve. Edison, New Jersey was a  
2 prime example of what can happen on an auto close valve  
3 when you don't have backup. That was, I believe it was  
4 a 36 inch line that they had there and you can imagine  
5 going out there and -- some of those operators would  
6 know what it's like to try to hand close a valve that's  
7 36 inches. As long as there is redundancy on the valve  
8 operator, I'm comfortable with that. The only other  
9 area of concern I would have is location of the valves.

10 Q Have you been provided with specifics in any of the  
11 plans that you've reviewed?

12 A I believe last year we had some talks with Tennessee and  
13 they had tentatively shown some places that they would  
14 put valves but I would really like to see something  
15 that's more exact because the question that arises here  
16 is we're not talking a single line. We're talking a  
17 dual line where 12 inches is going to remain and 12  
18 inches is going to be tied into the 20. And I think,  
19 from an operations standpoint, you know, if you have a  
20 valve that shuts down well, it might shut down but if  
21 it's being fed by another pipeline it doesn't accomplish  
22 anything. So -- and I'm sure, Tennessee is not a --  
23 they didn't just create themselves last week, so they've  
24 got some good experience and they know, they should know

1            anyway, where these valves should be located. And I'd  
2            just like to know where they're going to be putting them  
3            and make sure that we do have them in areas that we have  
4            concern about.

5    Q    And again, using the same line of questioning, is that  
6            information that you think that the Committee should  
7            have and that you should be able to review prior to the  
8            certificate being issued?

9    A    Yes.

10   Q    Is there anything else about the valves other than what  
11           we've already spoken of?

12   A    No, I think we've covered that area.

13   Q    Okay. Now moving on to the all important, internal  
14           inspection criteria, that is the pigs.

15   A    Smart pigs.

16   Q    Smart pigs. We've obviously sat through quite a bit of  
17           discussion not only during the direct but then during  
18           the questioning. I assume you were here for all of that  
19           testimony?

20   A    Yes.

21   Q    Obviously you've read the written responses as we've  
22           already outlined through the exhibits?

23   A    Yes.

24   Q    Would you like to tell the Committee what your position

1 is and what the basis is for your position as it relates  
2 to the issue?

3 A Yes. First of all, the other day we heard some  
4 testimony from Tennessee that listed the causes of  
5 failures. He went down and he mentioned third party  
6 damage. He mentioned corrosion. He mentioned material  
7 and construction defects and he mentioned human error.  
8 The focus of that conversation, that discussion, was  
9 around third party and corrosion. Really, when you come  
10 down to installing a pipeline the last two are the  
11 concerns that I have.

12 Now, to understand what happens with a pipeline you  
13 have to go back to where the pipe was made. At the mill  
14 it goes through all their inspections there. They hydro  
15 test it at the mill but it's only like for ten seconds.  
16 So you get somewhat of a testing there but whatever else  
17 the Company wants to be done can be done at the mill.  
18 When that pipe comes out it's in great shape. It should  
19 be in great shape. But then it's put on either a rail  
20 car, which I would assume is going to be done in this  
21 case. It's put on a rail car, it's shipped hundreds of  
22 miles in a rail car, bounces all over the place. When  
23 it gets to the yard, they unload it and then they put it  
24 on a truck and they haul it over and they stack it up

1 and then it's put there and then when the clearing is  
2 done, and the grading is done, and the trenching is  
3 done, they haul the pipe on a truck again. They haul it  
4 over to the site. They unload it and then they string  
5 it out. Then they weld it up. Then they do their  
6 coating and they do their testing to see if the coating  
7 was damaged and all that and they do their stringing and  
8 bending. Some of the pipe has to be bent above ground,  
9 and the welding and the coating. Then it's lowered in  
10 the pipeline. Then hopefully it's got backfill material  
11 around it that doesn't cause any damage. It's  
12 backfilled and then everyone thinks well we're all set  
13 now. Well, now what happens is, now what do you do?  
14 You do hydro test. Now everyone says, that's not going  
15 to affect the pipe. Well, to get an idea of what a  
16 hydro test does, if you imagine what happens with a fire  
17 hose, you take an empty fire hose and then you fill it  
18 up, what does it do? It kind of moves, doesn't it?  
19 Well, that's what happens with a pipeline. That  
20 pipeline can move. And if you have any kind of rocks or  
21 if -- you know, this pipe isn't straight, it goes up and  
22 down and all over, so it's moving all over the place.  
23 If your backfill material isn't right or if you went  
24 through some ledge that was blasted and you didn't have

1           enough material underneath or on the side of it or  
2           whatnot, that pipe can move and dent it or gouge it or  
3           scratch it.

4           So that pipe is handled an awful lot between the  
5           mill and when it gets in the ground. And there's a lot  
6           of inspections done along the way also. Believe me  
7           there is, by all sorts of people from -- who are  
8           involved at all phases of this pipeline. But once that  
9           pipeline is in the ground, my feeling is, okay we can  
10          have material defects, we can have construction defects  
11          and also there is human error involved. Now to  
12          eliminate all this, I honestly feel that the internal  
13          inspection tool is the ideal thing to have.

14          Now in PNGTS' case and M&N we allowed them three  
15          years to do the inspections. That was somewhat of a --  
16          we were very conservative with them on that. I would  
17          think that the sooner you can do that internal  
18          inspection the better off you are because if there are  
19          any defects you're going to find them and then you  
20          correct them and not let them sit there for awhile. Now  
21          we heard discussion here that the magnetic flux leakage,  
22          that's MFL which is magnetic flux leakage. It's an in-  
23          line inspection tool. They focus in on corrosion.

24          Q     Let's back up just so it's clear for the record. That

1 magnetic flux leakage is that a smart pig test?

2 A Yes.

3 Q Okay. Just so the record is clear.

4 A The discussion that we heard in the last couple of days  
5 was really around corrosion. And MFL is definitely a  
6 good way of finding corrosion. And I don't think we're  
7 going to have any corrosion or should we have any  
8 corrosion in this pipe when it's newly in the ground.  
9 But a smart pig can do other things. That's the part  
10 that I think is well worthwhile. It can pick up dents  
11 and buckles, with or without metal loss. Normally we're  
12 looking for metal loss and that metal loss can be  
13 scratches or gouges.

14 Q What's the concern if those things exist?

15 A Well, you're -- the integrity of the pipe has been  
16 decreased tremendously. If you have a gouge or a  
17 scratch of some sort you're setting up a concentrated  
18 area of stress. That could be stressed out when the  
19 pipe is in operation and that could lead to failure of  
20 the pipe.

21 Q Is there any other mechanism that could be put into  
22 place by Tennessee that would accomplish that same  
23 result, that is, determine any of those gouges or other  
24 defects within the materials?

1 A Not that I'm aware of.

2 Q Is it your position that the hydrostatic testing and the  
3 calliper pigging which has been suggested by Tennessee  
4 is insufficient to provide that specific information  
5 that you've just described that you think is necessary  
6 to ensure the integrity of the line?

7 A Yes. There are two ways of really identifying integrity  
8 of your pipeline. One is hydrostatically testing and the  
9 other is in-line inspection. The smart pig in the hydro  
10 test, that's the cat's eye. That gives you as much as  
11 possible you can do to assure yourself that your pipe is  
12 the way you want it.

13 Q Yesterday we heard quite a bit of testimony from  
14 Tennessee that, "But we're going to follow every  
15 specific inspection allowable. We're not going to  
16 tolerate anything from the mill that isn't perfect.  
17 We're not going to put anything into the ground unless  
18 it's perfect. We're going to do every and all tests to  
19 ensure that." Even with their history, that is their  
20 safety history, that they spoke of. Understanding all  
21 of those issues and statements of fact by Tennessee can  
22 -- and understanding that they are going to comply with  
23 all of that. Can that ensure the interior integrity of  
24 the line?

1 A No. As I mentioned, you're talking areas here of  
2 material defect, construction defects, and human error.  
3 You know I've been in this business a long time and I  
4 don't know of any contractor that's perfect. They all  
5 have good intentions. They all want to do a good job  
6 but they also want to make a buck. And when they're out  
7 there you're inspecting them, you can't be watching them  
8 every minute they're there. Your inspectors are moving  
9 along, looking at different things and trying to keep  
10 the contractor on their toes but things happen out  
11 there. I don't know of any project that has not found  
12 some sort of defect in the pipe, in doing all sorts of  
13 inspections.

14 Q Now during the testimony presented by Tennessee my  
15 understanding and if we could have a little bit of a  
16 dialogue on it, is that they didn't feel that the smart  
17 pig was necessary because they are not going to tolerate  
18 anything other than a perfect line. So the use of the  
19 smart pig as a baseline is irrelevant because even if  
20 there is anything that is shown in terms of the result  
21 of the smart pig test, they are not going to tolerate  
22 any defects or any bumps in the road, so to speak, and  
23 so it's not going to serve a purpose as a baseline,  
24 therefore we shouldn't be required to use it. Again,

1 I'm not sure if I understood fully what they were trying  
2 to get at but that was my understanding. Do you have  
3 any comments you'd like to provide to the Committee as  
4 it relates to that issue?

5 A Well, doing that smart pigging is going to accomplish  
6 several things. One is it should eliminate any doubts  
7 that there are scratches or gouges and also it can pick  
8 up laminations. If they have testing done at the mill  
9 for laminations that's fine but if they don't, this also  
10 should pick up -- has the possibility of picking up  
11 laminations. Also, what it also does when it  
12 establishes the baseline, we're talking about a  
13 thumbprint of that pipeline and there are going to be  
14 some imperfections in the pipe. These imperfections in  
15 some cases won't be a problem, but you'll know some of  
16 them. Where they are. These imperfections can turn  
17 into defects. And then down the line a defect can turn  
18 into some other problem. So I think having that  
19 baseline, that thumbprint of the pipeline is well  
20 worthwhile.

21 There was a statement also that they said something  
22 about OPS has gone on record as saying that they believe  
23 that doing a baseline on older pipe is the way to go.  
24 I don't know. I've talked to the director of the

1 Eastern Region. I've known him for over 20 years, and  
2 recently I went in on my discussions with him on this  
3 topic because it's such a major area. He told me that  
4 he definitely feels, and this is the director of the  
5 Eastern Region, that doing a baseline on a new pipeline  
6 is definitely has its advantages. There's no question  
7 about it.

8 Q I'd like to ask you, in the response provided by  
9 Tennessee Gas to your issue of internal inspection  
10 criteria, they stated and I'd like to quote it, and I  
11 believe this is the document that was provided on  
12 October 13, 2000. "The Applicant does agree to run a  
13 calliper pig before the pipeline is put in service. In  
14 addition to the running of a calliper pig, the integrity  
15 of the pipeline will be verified/maintained by mill  
16 inspectors, weld X-rays, coating inspection prior to  
17 backfill, detailed corrosion surveys after construction,  
18 hydrostatic testing, and annual corrosion surveys." Are  
19 you familiar at all in terms of any of the documentation  
20 or dialogue you've had with Tennessee, what annual  
21 corrosion surveys they were going to conduct on this  
22 pipeline?

23 A Well, that's just something that's required by the OPS.

24 Q How can they perform or provide annual corrosion surveys

1 internally?

2 A Oh, internally. Where does it --?

3 Q Well, this was in response to your internal inspection  
4 criteria.

5 A I'm reading that but I don't see where it says internal  
6 corrosion.

7 Q Well, that's exactly my point.

8 A Oh, okay.

9 Q They've indicated that in response to your comment about  
10 internal inspection criteria, their response is that  
11 they are going to annual corrosion surveys. I was  
12 assuming that they would be responding to your internal  
13 inspection criteria since that's what we were talking  
14 about. That's what your condition was describing.

15 A As far as internal corrosion, I've heard the testimony  
16 in the last couple of days and I have to agree with the  
17 Company on internal corrosion. I've talked to the  
18 Eastern Region. I've talked to their inspectors. I've  
19 talked to other states in New England. My counterparts.  
20 We don't have any records of internal corrosion in New  
21 England, which kind of supports what the Company is  
22 telling us. The gas, I believe, is clean. There's no  
23 indications of carbon dioxide or hydrogen sulfide or  
24 water. I think we're in good shape. For one time, it

1 pays to be at the end of the pipeline.

2 CHAIR: Pays dearly.

3 Q Well, let me be more direct. Maybe I'm misstating my  
4 question. What are the annual corrosion surveys?

5 A Those annual corrosion surveys are more for external.

6 Q What internal detail corrosion surveys or annual  
7 corrosion surveys for internal corrosion of that  
8 pipeline have been put into place by Tennessee that  
9 you're aware of?

10 A I'm not aware of any.

11 Q Thank you. Is there anything else that you'd like to  
12 share with the Committee about this issue?

13 A Yes. There's one other area with internal inspection.  
14 I think one of the key things in my safety program is to  
15 be consistent. If you're consistent you have  
16 credibility. I think this Committee has already set a  
17 level of safety, what they feel is right for the State  
18 of New Hampshire in previous proceedings. We've done  
19 that with PNGTS-M&N and this Committee has asked or  
20 required internal inspection of the pipeline. I think  
21 to be consistent is very important in a safety program  
22 and that's why I would strongly recommend that we  
23 continue with that type of thing.

24 Q And just as a closing question on it, obviously I'm

1            sympathetic to the fact that it's very costly and  
2            Tennessee indicates to us that that's not the issue.  If  
3            there was another way to provide that same information  
4            to the people of New Hampshire, that is, internal  
5            corrosion information, would that be something that you  
6            would be willing to implement?

7            A     Well --

8            Q     I guess my point is, is there any other way we can get  
9            this information, in your opinion?

10          A     No, there isn't.     But corrosion isn't the issue.  
11          Internal corrosion isn't the issue.  Internal inspection  
12          is to examine the pipeline, the pipe itself, to  
13          determine if there's any flaws in it at all.

14          Q     And obviously corrosion later on would be the issue.

15          A     That should be -- external corrosion? internal?

16          Q     Internal.

17          A     I don't expect any internal corrosion on this pipeline.  
18          I really don't.     Also, as a matter of fact, the  
19          information to the Committee is that the lateral that's  
20          coming off this pipeline in Londonderry that runs over  
21          to AES, that is going to be a 16 inch pipeline which  
22          would be installed by EnergyNorth and that's going to be  
23          running at a line pressure which means the same pressure  
24          that Tennessee has is what the lateral is going to have.

1 In my discussions with EnergyNorth, they will be doing  
2 a smart pig of that line also.

3 Q Is there anything else that you'd like to share with the  
4 Committee on the issue?

5 A No. I think that's about it.

6 Q I think moving on now to the next topic that you had  
7 discussed was Operation, Maintenance Emergency Plan,  
8 also known as the O & M. You've asked for a  
9 comprehensive plan and have indicated that one had not  
10 been filed as of the date that you submitted this in  
11 August. They have responded, as I understand it, that  
12 they do intend to file a plan and they provided us with  
13 a 30 day prior to start of operation deadline for that.  
14 Again, continuing on with that same line of questioning  
15 we've had for all the other subjects, how can you and  
16 EFSEC make a determination on that plan if it's not  
17 provided until after this process?

18 ATTORNEY SMITH: I missed it. Could  
19 you tell me which plan you're referring to?

20 ATTORNEY WAGELING: The O & M. The  
21 Operation, Maintenance and Emergency Plan.

22 A The one question that I have here is in the response  
23 they mention 30 days before operations begin.  
24 Operations to construct the pipeline or operation of the

1 pipeline, is the question and if I can have that  
2 answered then I can elaborate on it.

3 Q Again, I think going back to what we've already  
4 discussed, how can you after this process is done, how  
5 can you comment whether or not it's sufficient if you  
6 don't get it before the process is done? At least in  
7 draft form.

8 A Well, I think the Committee could make some sort of  
9 stipulation in the certificate saying that prior to  
10 operation the plans be reviewed by the Safety Division.

11 Q And approved by. Or not?

12 A I guess you can do that. I'm just thinking as an agent  
13 for OPS what we would do is, if we find any deficiencies  
14 as an agent of OPS we would turn it over to OPS and then  
15 they would do the enforcing, but I think the Site  
16 Committee probably could add a little more clout to that  
17 and require the same thing.

18 Q So other than your interest in learning, at least in  
19 terms of their response, as to whether or not they  
20 intended to file it 30 days before the beginning of  
21 construction or the beginning of operation.

22 A That's a major concern because if it's 30 days before  
23 they start operating, I would have a concern with that,  
24 especially in the emergency plan. Not knowing that it

1 meets the requirements.

2 Q When would you like it ultimately?

3 A Well, I would say before construction starts so that it  
4 would give us time to review that. It's not something  
5 that you can just review in a few minutes.

6 Q When would you like it though, specifically? I know  
7 you're saying before construction starts but --

8 A Just prior to construction would be fine.

9 Q The day before? I don't mean to be nit picking here but  
10 if you could be more specific.

11 A May 1<sup>st</sup>. That's fine.

12 Q May 1<sup>st</sup> is okay? Thank you. Is there anything else on  
13 that subject that you would like to discuss with the  
14 Committee?

15 A Well, it is critical that the operations and maintenance  
16 is -- Tennessee is a good company in New England. As a  
17 matter of fact, they're a very good company. Pigging of  
18 their pipeline, just off the top of my head I can tell  
19 you that they're one of the more aggressive companies in  
20 the country for doing pigging. In the Hopkinton  
21 district alone, which takes New Hampshire, Eastern Mass.  
22 and I think there's a lateral that goes down to Rhode  
23 Island. That area alone, I believe that 80 percent of  
24 that line is their lines have been internally inspected.

1 Wonder where I get that information, huh? But that's  
2 the type of information that I do in my research. I  
3 want to know who I'm dealing with and what kind of  
4 operation they have. But I can tell you that I feel  
5 that they're a good company. They're an excellent  
6 company.

7 Now what effect El Paso has on them is a different  
8 story because we all know that mergers and acquisitions  
9 change things. Tennessee has some best practices and I  
10 hope they can maintain those best practices and I guess  
11 time will only tell.

12 Q Thank you. Is there anything else that you'd like to  
13 add other than what you've just done, in terms of the O  
14 & M issue? The Operation, Maintenance Emergency Plan.

15 A No. As long as we have an opportunity to review those  
16 because they have to be site specific. Especially the  
17 Emergency Plan. That is a major concern with the  
18 communities and along the pipeline because the public  
19 awareness is definitely a major issue.

20 Q The next issue that I believe you had reviewed within  
21 your report on draft conditions was quality control  
22 during construction.

23 A With any pipeline construction you can do all the foot  
24 work prior to and come up with a nice print showing

1 where you're going to put the pipeline, how you're going  
2 to construct it and do it. But when you get out in the  
3 field there's always field changes. Especially in the  
4 welding end of it where you have to -- you end up  
5 cutting out a section or trying to put in a spool of  
6 some sort. And other certain conditions. There's so  
7 much that can happen in the field, changes to what you  
8 originally planned on doing, that I think those are just  
9 as important, if not more important than having an  
10 involvement in the changes.

11 I'm not saying that we should go out there and get into  
12 any kind of a stop action type of thing. We're not out  
13 there. If this pipeline is approved it makes no  
14 difference to me whether it is or not, but my job for  
15 the State of New Hampshire is to make sure that it's  
16 done right. I just think that we should be involved in  
17 any field changes and be aware of them and work with the  
18 Company in making sure that the changes are being done  
19 properly. That the contractor is aware of the changes  
20 and is doing it according to specifications.

21 Q They have indicated relative to field changes that they  
22 would provide you with that specific -- I assume site  
23 specific protocol and maybe that should be clarified,  
24 but 30 days prior to the start of construction. Is that

1 time adequate for your concerns?

2 A For the protocol? Yes.

3 Q You had also indicated that you think that it should  
4 include state agencies?

5 A Oh definitely. Because this isn't just the Safety  
6 Division. We're talking the rest of the departments  
7 that are represented here. If there are any changes to  
8 what they understand that the Company is going to be  
9 doing they should be aware of these changes also and be  
10 involved in any changes.

11 Q What do we do -- if you can advise me and the Committee.  
12 What do we do if we wait and allow them to provide this  
13 information 30 days prior to construction and they do  
14 not include within their protocol, individuals or  
15 agencies that we think would be necessary to ensure the  
16 safety of not only the environment but the people of New  
17 Hampshire?

18 A Well, I think what I would recommend to the Committee is  
19 that they require the Company to set up this protocol to  
20 address anything that happens. That's going to be  
21 agreed upon with the Company. And if they deviate from  
22 that protocol then we would have recourse with the  
23 Committee. But that protocol, setting it up saying okay  
24 this is how we will handle this, if it involves DES or

1           it involves PUC or any other department this is how  
2           we're going to handle it.

3    Q       So we should have final say on the protocol, the  
4           specific protocol that's provided?

5    A       I think the Committee would have the final say on the  
6           protocol.

7    Q       If that document isn't provided to all of us until 30  
8           days prior to construction, is that sufficient time to  
9           remedy any differences of opinion within the protocol  
10          prior to construction starting?

11   A       I would say yes, because when construction starts, they  
12          don't just dig a trench right away. There is time  
13          involved in mobilizing, getting everything in place, the  
14          clearing, the grading and all that. So it will give us  
15          enough time, I think, for the departments to review it.

16   Q       Prior to getting field changes within your document, you  
17          also had a discussion of quality control during  
18          discussion and you had suggested that Tennessee should  
19          submit an inspection plan with written criteria which  
20          delineates qualifications of inspectors, frequency of  
21          inspections and critical activities to be monitored. My  
22          memory is that Tennessee had responded that they would,  
23          number one, to look toward their application which they  
24          cited to a specific section of it, but also that they

1 would provide that information no fewer than 30 days  
2 before the start of construction. Is that sufficient  
3 time?

4 A Yes.

5 Q And again, same discussion as we had with the field  
6 changes issue. In your opinion, who should have  
7 ultimate decision on that plan, whether or not it's  
8 sufficient?

9 A Well, I'm trying to think of other departments here that  
10 might be involved in that, so I would probably say that  
11 I think this all should be run by the Commission, run  
12 through the Committee.

13 Q Is there anything else on that subject matter that you  
14 would like to discuss with the Committee?

15 A Well yes, probably the most important thing out of that  
16 is what if we find a problem in that area, if there's a  
17 deficiency in the Company performing according to the  
18 way they're supposed to. Whether it's a Safety Division  
19 condition or whether it's a DES condition. What happens  
20 if the inspector for any department is out there and  
21 finds a deficiency there and wants it corrected and it  
22 doesn't get corrected? What happens then?

23 Q What do you suggest?

24 A I think there should be some language in here that says

1           that the pipeline will not be operated unless all  
2           deficiencies are resolved prior to operation. Like I  
3           said, I don't think we're looking to get out there and  
4           be a cop and say okay I'm going to shut this pipeline  
5           down. That's not what we're out there for. We want the  
6           pipeline to be put in in a safe manner and they have to  
7           -- you know, it costs them money each day. It costs  
8           bucks and I think as long as we can be out there  
9           inspecting and working with them, because no matter how  
10          you look at it, we have to work with them and if they  
11          can agree to working with us then I think that we should  
12          have no problem. We didn't have any problem in New  
13          Hampshire I can tell you that with the PNGTS-M&N line.  
14          And that's only because, and this is my opinion, which  
15          I honestly feel this is what helped me out, was not only  
16          was I an OPS agent, but I wear two hats. I represented  
17          the Committee and I represented OPS. Now OPS will not  
18          shut down a pipeline. I can tell you that. The Company  
19          knows that and this is their philosophy. It's a  
20          bureaucratic way that they operate, unfortunately. But  
21          when I had a problem out there and I met with the  
22          companies and I tried to resolve, I said, listen we're  
23          I'm not trying -- we're reasonable. Anyone that's worked  
24          with me over the last 20 years knows that we are very

1 reasonable. So when I go out there and I say -- and  
2 some of them are company oriented and they'll say, "Hey,  
3 we're not going to do anything you say." Well, the  
4 bottom line is, I can say, "Okay. I will take this back  
5 to my Commission and they in turn will take it to the  
6 Site Evaluation Committee and they in turn will shut  
7 down the pipeline." And that works. That's the bottom  
8 line in getting something resolved. I only did that  
9 once and I think to word got out that, hey, let's work  
10 with these guys and try to do a good job.

11 Q I think that leads me right into the next issue which is  
12 --

13 ATTORNEY SMITH: Excuse me, but just  
14 for the record, Mr. Chairman, I don't want to interrupt  
15 your examination unnecessarily but anticipating that the  
16 Committee we certainly hope will issue a certificate and  
17 thinking about the framework in which this testimony is  
18 introduced into the record, I'd like to be sure that the  
19 record is clear that we think there is a fundamental,  
20 jurisdictional difference that's being discussed in this  
21 testimony. So as we all go forward we keep that in  
22 mind. I think this witness expressed a framework that  
23 is pretty much consistent with our view and then  
24 expressed -- the question really drew him into that, a

1           concept which we think is inconsistent with that  
2           framework in this sense. We understand that the EFSEC  
3           will compose its own conditions and that it may under  
4           RSA 162-H delegate certain authority to individual  
5           agencies where that efficacious and the Committee  
6           believes it's prudent. But we are operating here with  
7           federal preemption over some of these issues. Most of  
8           them. Mr. Marini has mentioned that, as we expect, this  
9           would go forward, he or someone from his office at the  
10          PUC would be empowered to inspect this facility for the  
11          Office of Pipeline Safety. At one point in his  
12          testimony he mentioned that if a problem arises in that  
13          capacity well, I suppose state officials will also have  
14          in mind their state authority that they believe the  
15          legislature conferred upon them. His remedy might be to  
16          try to work the matter out or to invoke federal  
17          authority to stop this project. I do not believe state  
18          authorities would allow stopping this project in the  
19          face of what the federal agencies want it to do.

20                 So when we move to that part of the testimony here  
21                 about how would Mr. Marini or others as he mentioned who  
22                 represent the authority of the state work out an issue,  
23                 I can tell you that the Applicant is trying to do that  
24                 here. And the Applicant will try to continue to do that

1 in all cases. But if we come to what the witness said  
2 about how the certificate perhaps should have some  
3 language that said the Applicant cannot proceed unless  
4 all deficiencies have been corrected, I'd like to make  
5 it clear that we believe the certificate should not  
6 include such language. First of all, there is federal  
7 control whether the project goes forward or not. I  
8 believe the way Mr. Marini explained it is consistent  
9 with our view is, that if, as a federal agent or as a  
10 state agent on this project, those that you grant  
11 authority to inspect and interact with the Applicant at  
12 the site believe a deficiency has arisen or a problem of  
13 any type has arisen, the mechanism will be to try to  
14 work that out. A quality control plan can be worked out  
15 with those representatives, and at one point Mr. Marini  
16 said it would be agreed upon with the Company. If that  
17 effort to work it out is unsuccessful, and I believe in  
18 our view, he correctly stated the mechanism which would  
19 work legally and that is that a party could come before  
20 this Committee. We are mindful that this Committee on  
21 the face of the statute has enforcement authority that  
22 continues over a project. But that the delegated  
23 official would not, under any language in the  
24 certificate, have the authority to stop this project.

1           If there were an issue that needed resolution and any  
2           party felt that a hearing should occur here, they can  
3           request it. And I believe this Committee could probably  
4           invoke a hearing on its own motion. That, to us, is a  
5           world apart from trying to give in the certificate, any  
6           state agent the authority to stop this project.

7           So again, I think there's a mechanism that works  
8           for all of us. But I want to make sure that we don't  
9           step over the edge on that point. I think Mr. Marini  
10          expressed it exactly as we would think it would work  
11          properly. But on the other hand, if there were any  
12          deficiency in language and the certificate said that the  
13          project couldn't go forward, I believe that wouldn't  
14          conform to the law and I think it would present some  
15          other problems too. Thank you.

16                   CHAIR:                                   Thank you. Deborah?

17                   COMMISSIONER SCHACHTER: May I ask a question  
18                   to further qualify the position of the Supreme Court?  
19                   As I understand what you've said you disagree that any  
20                   agency member of this Committee could put a stop to the  
21                   operation of the project based on perceived deficiency  
22                   and you propose calling the Company back in for a  
23                   hearing. What would --

24                   ATTORNEY SMITH:                           If it couldn't be

1 resolved.

2 COMMISSIONER SCHACHTER: Right. Presuming a  
3 more informal method is unsuccessful. What would the  
4 outcome of the hearing produce if the Company continued  
5 to disagree with the position of the Committee relative  
6 to perceived deficiencies?

7 ATTORNEY SMITH: I'm trying to balance  
8 the, if you will, the kind of inconsistencies that we  
9 are all operating with recognition at the back of our  
10 minds, and that is that I believe federal law really  
11 preempts most of this and therefore federal regulatory  
12 authority would control whether the project could  
13 proceed or not proceed and in many respects, how. But  
14 we're trying to come in a cooperative way with the  
15 reservations of rights to a resolution of all of those  
16 things. So if there was some matter, I'm not quite sure  
17 which ones to envision, relatively minor or in the view  
18 of the state agencies more material, that wasn't  
19 resolved, I think the only way we could try to deal with  
20 that would be for the parties to decide whether or not  
21 they thought invoking a proceeding, whether a hearing  
22 would be required or not, invoking some action by this  
23 Committee was an appropriate step to take with respect  
24 to that issue. Or whether at that point, parties would

1           decide that the federal authorities are going to deal  
2           with that issue.    We would be -- all of us would have  
3           to consider whether we want to have further legal  
4           proceedings at the state which the Applicant thinks are  
5           preempted or not at that point.    All the following  
6           consequences of having further proceedings at that  
7           point.    So I don't want to have something pass by that  
8           seems kind of routine and going on at the construction  
9           site when if we put it in the certificate and knowing  
10          that there are routes to judicial review, more than one  
11          of them, that we would have created a spot for ourselves  
12          where this becomes inconsistent with federal law and  
13          perhaps even unworkable.    That's what I'm trying to stay  
14          away from.

15                           CHAIR:                           Well, I think there's  
16          potentially a long discussion about this issue and in  
17          which there are different opinions of how a mechanism  
18          could work from a legal standpoint.    And I think we  
19          could spend a long time discussing that and would rather  
20          defer that for now and try to finish the witness, given  
21          his schedule, if we could.    Thank you.

22    A    If I could just mention to the Committee that this was  
23          one of our conditions in the previous PNGTS-M&N where we  
24          did say that said inspectors will not have stop work

1 ability. However, all noted deficiencies in  
2 construction shall be mitigated prior to operation.  
3 Just wanted to mention that.

4 CHAIR: Thank you.

5 Q Now Mr. Marini, you were just talking before we went off  
6 on the legal discussion about the dual role of somebody,  
7 possibly yourself, or somebody within your Division to  
8 be working with authority that you would receive from  
9 EFSEC on safety inspection for the state, and also  
10 wearing the hat of an OPS inspector. If you could  
11 provide us further information on that and what, if any,  
12 comments you might have relative to the response  
13 provided by Tennessee on that issue?

14 A Yes. I have some concern here. The Applicant responded  
15 by saying that the Applicant agrees to a state inspector  
16 working independently from the Applicant who will have  
17 dual functionality, first acting as an agent for the  
18 Office of Pipeline Safety. Well, for one thing, that  
19 person, that inspector, will not be designated by OPS to  
20 be inspector. Only the PUC can be that agent. In turn,  
21 the Safety Division of the PUC would give that  
22 responsibility to the Safety Division which would  
23 include myself and my inspector. So that's one thing  
24 that would have to be changed, where the PUC would be

1 granted that status.

2 Also, it got into the cost of inspection. Some of  
3 the percentages that are used here are close but not  
4 close enough. I believe there was some discussion last  
5 year about being involved in inspecting the pipeline.  
6 There have been some changes in policy with the Office  
7 of Pipeline Safety since then. We have been informed by  
8 OPS that they will grant us interstate agent status on  
9 a temporary basis for the construction of this pipeline  
10 providing that we don't take away from our other  
11 responsibilities as far as inspecting intrastate  
12 operators. Now we're talking construction here from May  
13 to October which is prime time for all our operators.  
14 All my LDC's. So therefore, I won't be able to, and my  
15 inspector won't be able to be here 100 percent of the  
16 time because we'll still have to inspect our LDC's. So  
17 the only way to handle this would be what we did with  
18 PNGTS-M&N and that is to bring in a consultant, and hire  
19 that person on a full time basis who will be on site and  
20 he will be supplemented by myself and my inspector. And  
21 that would give us what I consider a better coverage of  
22 the project and should give us a better level -- a  
23 better feeling that we're doing the job we're supposed  
24 to be doing for the State of New Hampshire. So the cost

1 would change.

2 The percentages that are here were percentages that  
3 we were talking about in previous years. Congress has  
4 not been very good to us lately and on a yearly basis  
5 they've been cutting our federal funds. Last year we  
6 were down to 41 percent from the feds. The pie is only  
7 that big. We've got states like New York and Louisiana,  
8 Texas, California who are growing by leaps and bounds.  
9 We're talking 12 million dollars. 13.5, I'm sorry.  
10 13.5 that's being divvied up with all the states for  
11 pipeline safety. That's not much. When you get  
12 California that takes them over a million dollars and  
13 Texas that takes over a million dollars, New York,  
14 they've got 38 inspectors. They're up to close to  
15 \$950,000. That leaves the smaller states with not much.  
16 So the percentages are dropping and I anticipate that  
17 there will probably be at 40 percent, if not 39 percent  
18 federal funds. It hasn't been allocated yet for next  
19 year. We're on the calendar year with the feds with our  
20 safety program so it starts January 1. They haven't  
21 told us what the percentages are going to be yet.

22 Q So it would be fair to say that you would like this  
23 agreement if you will, to be amended from the 57 percent  
24 of \$50,000 and have it tied to whatever the funding is

1           that's received from the federal government? Is that  
2           fair to say?

3       A     Well, I would like to, without trying to figure out what  
4           the percentages are going to be, is to come up with a  
5           number and say that the cost to the Applicant would be  
6           no more than -- that type of number and they can be  
7           guaranteed that that's what it will be so they'll have  
8           a better handle on what their costs will be. I still  
9           have to get approval from my Commissioners, so what I'm  
10          saying here is not a totally --.

11       Q     It's still fluid?

12       A     It most certainly is. I have to get approval from the  
13          Commission and then go to OPS and we have to refile our  
14          application for next year and all that. So there's  
15          still work to be done.

16       Q     I believe we have already discussed field changes in  
17          terms of your report. Is there anything else within  
18          field changes that you haven't already discussed?

19       A     No. I think that's it.

20       Q     In terms of the data request that had been provided to  
21          you from Counsel for the Public, one of the issues that  
22          had been addressed is the blasting issue. Could you  
23          provide the Committee with any information that you  
24          might have as to the existence of anybody within the

1 state system that could act as an independent state  
2 inspector relative to blasting?

3 A I think it's important that we all work together in  
4 this. This pipeline is close to another pipeline. It  
5 crosses in areas. There is going to be some blasting  
6 that we're aware of and probably some that we're not  
7 aware of as of yet. I think it's important that the  
8 people that are involved work together. That includes  
9 the Safety Division, the Applicant. And we're not  
10 experts in blasting. I would think that someone in the  
11 state, I'm aware of some people in the Department of  
12 Safety who are experts in blasting, that maybe we could  
13 ask them to assist us and just looking at what the  
14 situation is here. Well, first of all, they could  
15 probably review the blasting procedure, for one thing.

16  
17 Q The specific blasting plans for this project?

18 A Right. So they would have a handle on what the Company  
19 plans on doing.

20 Q Let me interrupt you for just a second. Do you think it  
21 would be prudent for them to be provided with a specific  
22 blasting plan prior to the start of construction and be  
23 part of the review process of that blasting plan prior  
24 to it being put into effect?

1 A Well, I think they should be given the opportunity to  
2 review that plan prior to doing any blasting. Review  
3 the plan and ascertain that yeah, everything looks right  
4 to them. Then in the field I think there would be some  
5 areas where we might want to have that person on site to  
6 maybe lend some expertise and from the Safety Division  
7 we can tell them, or be involved in the dialogue and  
8 say, "Okay, we got a 12 inch line here, it's operating  
9 at 650 or whatever at that time. These are our  
10 concerns." We can do that type of thing. But as far as  
11 knowing the charges that they're going to be using and  
12 what effect it's going to have, the movement of the soil  
13 and whatnot, I think having an expert there to assist us  
14 would be helpful.

15 Q Is there anything else that you'd like to discuss with  
16 the Committee in terms of this project that we haven't  
17 already put forth?

18 A No, I think that covers that.

19 Q Is there any other testimony that you would like to  
20 provide at this time?

21 A Well, one of the areas that we didn't cover was  
22 encroachment and closeness of structures. There are  
23 areas that I'm aware of that there is structures that  
24 are very, very close to the pipeline. And I think the

1 Company has already said that they will use a class  
2 minimum of a Class 3 location on these dwellings that  
3 are less than 40 feet. I think that's -- I'm very  
4 pleased to hear that. I think that's important. We've  
5 heard a lot of talk about other structures that are  
6 close and maybe they should be 200 feet away or 600 feet  
7 away or 1500 feet away. I don't know if there's any  
8 clear cut answer to any of this. You can come up with  
9 a worse case scenario and you might as well say well  
10 nobody should live in the State of New Hampshire. But  
11 if we look at our pipeline structure, our  
12 infrastructure, people south of the border down in  
13 Massachusetts and I can tell you there's some high  
14 pressure lines operating at 500, 800, 900 pounds  
15 downtown. Wall to wall pavement. High rises. It  
16 scares you. But I honestly think that if you construct  
17 the pipeline properly, you install it properly, it's not  
18 over yet. You've got to operate and maintain it. If  
19 you do all these things that you should have no problem.

20  
21 The only problem you do have is third party.  
22 That's where your damage prevention program comes into  
23 play and your public awareness. So I think that the  
24 encroachment problem is -- you don't see anywhere in the

1 federal regs that you have to be a certain distance from  
2 a pipeline. I'm co-chair of a committee that's  
3 reviewing these federal regs. We've already done part  
4 of it and we're -- in another couple of weeks we'll be  
5 doing three other parts of these regs. We're reviewing  
6 them and we're going to be making recommendations to the  
7 Federal Office of Pipeline Safety for changes. But I  
8 can tell you that the federal government will not put  
9 anything in here that says you have to be so far from a  
10 pipeline. They think it should be on the local level.

11  
12 Now on the state level, my discussions with state  
13 people, we don't want to get into that position either.  
14 It should go to the local level which it is now. The  
15 communities. And that's where it should fall on, but  
16 the jurisdiction technically falls on the zoning board  
17 or whoever you have in that area. They're the ones that  
18 should be really looking at this because these pipelines  
19 are all on record. They know where the pipelines are.  
20 The question now is the communities. Where do they want  
21 to build around there.

22 So I just think that this is not a New Hampshire or  
23 a New England problem. This is a national problem,  
24 believe me. New Jersey when they had Edison, New Jersey

1 had their incident, that was a 36 inch line operating at  
2 900 and some odd pounds. You're talking major incident  
3 there. I don't want to get into any horror stories  
4 about it but you had a congested area. And one of the  
5 things that they did in their study, they looked at  
6 population density and encroachment and -- but New  
7 Jersey is pretty well populated in areas where the  
8 pipeline corridors go through. Now you can't change the  
9 pipelines. So what you have to do is you have to work  
10 with what's there now. And I think that's what we can  
11 do here is work with what's there now. Doing this  
12 pipeline if we do it right, I'm comfortable we're going  
13 to have a safe system.

14 Q Thank you Mr. Marini.

15 CHAIR: Cross-examination by  
16 the Applicant?

17 ATTORNEY SMITH: Just briefly.

18 **CROSS-EXAMINATION BY ATTORNEY SMITH:**

19 Q Is the system that's there now safe in your opinion?

20 A Well, you've got to understand that I'm not involved in  
21 the inspection of the pipeline. That's the  
22 responsibility of the Office of Pipeline Safety. I  
23 don't think I can give you a clear answer on that. I  
24 can just tell you that what I know is that the pipeline

1 has been there for a long time. I wasn't involved in  
2 the construction of it. I'm not involved in the O & M  
3 of it. I can just say that we haven't had any problems  
4 with it. So, so far, I guess we can say that the  
5 pipeline is safe.

6 Q You are aware of the fact that there was actually a  
7 recent newspaper article published where a reporter, I  
8 guess, from the *Union Leader* interviewed you. Have you  
9 seen that?

10 A Yes.

11 Q Understandably you were asked if something like New  
12 Mexico's tragic incident would happen here in New  
13 Hampshire's pipeline and you're described in that  
14 article as giving a decisive, no, it's highly unlikely  
15 that would happen here. Is that correct?

16 A That's correct.

17 Q You said that, is this correct, because you do see the  
18 benefit of being at the end of the pipe and because you  
19 too have concluded that we would have dry gas here in  
20 New Hampshire.

21 A We have clean gas.

22 Q Clean and dry?

23 A That's part of it.

24 Q So we shouldn't have problems with internal corrosion

1 here like they may have had in New Mexico, is that  
2 right?

3 A That's correct. And as I mentioned, I'm not an  
4 inspector for interstate but in my research and talking  
5 to OPS and other states, there is absolutely no record  
6 that anyone is aware of that we have had problems with  
7 internal corrosion in New England.

8 Q And I guess I'd like to be just sure I understand what  
9 you're telling us about the use of an intelligent pig.  
10 I think I clearly understand that you have divided the  
11 purposes for using such a tool into an inspection for  
12 corrosion and I think I understand your testimony to be  
13 that that wouldn't be a principle reason for doing that  
14 at the outset, at the installation of a new pipe. Is  
15 that right?

16 A That's correct.

17 Q For the reasons I think you've already explained in the  
18 record. Then you've talked about a second area and I  
19 just want to see if I understand really what your  
20 thinking is on this point. You, like the Applicant's  
21 witnesses, went through a whole series of steps that are  
22 taken to design, select materials for, inspect at the  
23 mill, as you said put in to place appropriate standards  
24 and procedures and that there are people all along the

1 way who are responsible for testing or visually  
2 inspecting the pipeline to try to make sure that all  
3 those standards are met. All the way, you described it  
4 quite articulately, all the way to laying it into the  
5 trench and thereafter. If I understood your testimony,  
6 this really is a question for you, you think that  
7 putting the intelligent pig run through would add  
8 information because those procedures might not be  
9 followed to the "T" and someone might not inspect and  
10 find those things. Whereas the Company has testified  
11 that if all those procedures are done correctly, will  
12 assure that that has been done to a satisfactory level.  
13 Is that a fair statement? Kind of the difference in how  
14 you look at it and how we look at it?

15 A Yes. The question is whether or not you can accomplish  
16 all that.

17 Q Right and you have some concerns about that and you  
18 think running the pig would be another way to be sure  
19 all that got done the way it was supposed to have gotten  
20 done?

21 A That's correct.

22 Q And if it was done the way it was supposed to have  
23 gotten done then the pig would simply be redundant. Is  
24 that true?

1 A Not necessarily. Because we're talking, there could be  
2 some defects -- like I said, I don't know what kind of  
3 testing will be done at the mill. In some cases this  
4 internal inspection can pick up laminations which I  
5 think I heard someone say that the mill will do that.  
6 I'm not -- if the Company has got that in their  
7 specifications, purchasing specs, that's fine. We won't  
8 have to worry about that too much. But as I mentioned,  
9 the handling of the pipe. So many times when you're  
10 handling that pipe you might hit it against something or  
11 whatnot and nobody thinks anything of it. Maybe you  
12 didn't damage the coating, maybe you just dinged it a  
13 little bit or whatnot. Or when you put it in the trench  
14 if it happens to hit an edge or something you can get a  
15 gouge or a scratch and nobody can see it because maybe  
16 it's on the bottom. Or during hydrostatic testing the  
17 moving of the pipe, it rubs against something and causes  
18 a defect. These are things that you're not going to  
19 know about. You'll never know about until it's too  
20 late. So by having this internal inspection, I think  
21 it's the frosting on the cake. That's going to tell you  
22 that yes, we have a good pipe now. Everything has been  
23 done right down the pike. Everything that we wanted to  
24 do and accomplish we've done.

1 Q I'd like to ask you just one more question. You're  
2 pretty thoroughly familiar at this point with the  
3 Applicant's proposal pending before the Committee on  
4 these issues that you've talked about in response to  
5 questions from Public Counsel?

6 A Yes.

7 Q Is it correct that the Applicant has put a proposal  
8 before this Committee that in all respects meets or  
9 exceeds the federal standards that would apply to these  
10 issues? Could you just give me a yes or no? Has it  
11 done that in your judgment?

12 A Well, I really don't like yes or no answers but.

13 Q Well, you can explain but I'd just like to know for the  
14 record, is it your view that the Applicant's proposal,  
15 just measuring it now by the federal yardstick. We  
16 understand that you have a different perspective and  
17 you've explained that very well to us today. But just  
18 measuring it by the federal standard, does the  
19 Application meet or exceed federal standards as far as  
20 you know?

21 A It appears that it meets the standards but the federal  
22 standards are minimum requirements. That's the key to  
23 this whole thing. Any company that says they meet  
24 minimum requirements, right away a red flag goes up in

1 my mind.

2 Q I understand. But I just wanted to know if that was --

3 A Federal safety is like this. If you're down here at  
4 minimum we have a long way to go.

5 Q I understand. Okay. Thank you. No further questions.

6 CHAIR: Thank you.

7 Londonderry Neighbor Coalition?

8 ATTORNEY EDWARDS: Real quick  
9 Commissioner Varney before I start, I just wanted to say  
10 that the LNC objects to many of Attorney Smith's  
11 statements regarding the federal preemption issues. I'm  
12 not about to get into a legal debate right now as much  
13 as I'd like to but.

14 CHAIR: Duly noted.

15 **CROSS-EXAMINATION BY ATTORNEY EDWARDS:**

16 Q Mr. Marini, you mentioned that some new pipeline  
17 standards that came out in July called the PSL-2?

18 A Yes.

19 Q I'd just like you to elaborate a little bit on them.  
20 What heightened -- or just elaborate on them a little  
21 bit on them. What do they impose that we're not -- or  
22 what do they suggest that have not been previously?

23 ATTORNEY SMITH: I'm sorry. I don't  
24 mean to interrupt but I didn't catch what it is you're

1 asking about?

2 ATTORNEY EDWARDS: Early in Mr. Marini's  
3 testimony he mentioned a pipeline spec. He referred to  
4 it as a July Standard. That's what I'm asking him  
5 about.

6 A It's a new standard. It's not being imposed. All I was  
7 mentioning is that we've had the API5L and 5LX for a  
8 number of years, which is a good standard. I think all  
9 the construction that's going on has been using that for  
10 years and years. However there is a new standard that  
11 came out in July and it's a standard that was developed  
12 by the industry. And it was brought to my attention by  
13 my consultant in Washington who worked with the industry  
14 on developing this stuff. He informed me of this thing.  
15 It's a new standard. It puts more of a handle on the  
16 manufacturer of the pipe in that it has more controls on  
17 the chemical and physical properties of the pipe which  
18 brings into pipe toughness which is a major area of  
19 concern of ours. To make sure that that pipe has that  
20 characteristic.

21 ATTORNEY SMITH: Could I say something  
22 Mr. Chairman? It just might shorten things. I could  
23 inform the Committee if you wish or someone could say  
24 so, I'm told that our specifications as pending before

1           you comply with that standard. The new July standard.

2                           CHAIR:                           Okay. Thank you.

3    Q    No more questions on that issue.

4                           MR. CANNATA:                           It takes a few off my  
5    list too.

6                           CHAIR:                           Yes. I was going to  
7    say, the Committee will be asking about that so thanks.

8    Q    I'd like to move on to the issue of trenching and the  
9    possibility of backfilling rocks in the trench. You  
10   addressed a concern for the potential for rocks to  
11   damage the coating to the pipe. I know yesterday during  
12   Mr. Auriemma's direct, I got into it briefly with him  
13   and we discussed the possibility of damage to the pipe  
14   coating. Are you aware of any specific specifications  
15   that Tennessee has proposed as to the maximum size of  
16   rock permissible to backfill in the trench?

17   A    No, I'm not. I haven't seen anything.

18   Q    Would you propose a recommendation to the Committee that  
19   they adopt for a specific size that's permissible to  
20   backfill?

21   A    I would like to see the Company submit their proposal  
22   first and run it through us.

23   Q    If you're not comfortable specifying a specific size of  
24   a stone it's understandable, but at the very least you'd

1           like to see Tennessee submit a proposal addressing this  
2           issue?

3    A       If they come up with a smaller size, I'll take that too.

4    Q       I'd like to point your attention to a DES draft  
5           condition that touches on this issue. I don't know what  
6           exhibit Attorney Smith -- okay, it's A-62 I guess is the  
7           one that has the DES draft permit conditions and it's  
8           condition 16. I'm just going to read it to you. You  
9           may not have it in front of you. It's on page 15 of 28.  
10          It states that, "Blast rock from trench excavation shall  
11          be disposed of in the trench or shall be removed from  
12          the wetland. Blast rock shall not otherwise be buried  
13          or distributed on the surface of wetlands." This is DES  
14          Draft Condition #16.       Okay, this is under the Draft  
15          Standard Dredge and Fill Permit Condition which is "B".  
16          So it's B-16. Do you see that condition that I just  
17          read, Mr. Marini?

18   A       Yes.

19   Q       Would you recommend that the Committee revise this Draft  
20          Permit Condition so as to reflect the Applicant's  
21          proposed method for backfilling rock in the trench,  
22          after that submittal is forwarded for review?

23   A       Normally in pipeline construction you do end up throwing  
24          some of the rock back in the trench but it's at a

1 distance away from the pipeline. So I would say that you  
2 can put some of the rock back in the ground as long as  
3 it's a distance away from the pipe.

4 Q Okay.

5 A That last sentence is kind of confusing where it says,  
6 "Blast rock shall not" -- okay. I'm all set.

7 Q But you would agree that there should be some limit  
8 imposed on the size of the rock that will be backfilled  
9 into the trench?

10 A Oh, definitely. No question about it.

11 Q On the smart pig, I just wanted to hear what your  
12 position as to the recommendation as to when you  
13 recommend the pipeline should be inspected with the  
14 smart pig? You reference the three year standard that  
15 was ultimately applied in PNGTS-M&N project. Are you  
16 recommending a similar three year standard here?

17 A Well, like I said, I'd like to be as consistent as  
18 possible. We were a little conservative with them on  
19 that but to get the pigging was worth waiting the three  
20 years if we had to wait the three years. But if I was  
21 to do it I think the sooner you can do it the better off  
22 you are.

23 Q Would it be reasonable for the Committee to ask for the  
24 three year requirement in this case?

1 A Yes, to be consistent I think that would be the way to  
2 go.

3 Q Okay. You also mention a concern over the actual  
4 construction process and you address the reality that  
5 not all contractors are perfect. Would you agree then  
6 that despite all the comprehensive policies and  
7 safeguards and procedures that Tennessee will no doubt  
8 diligently impose that the actual pipeline itself is  
9 only as good as the contractor that builds it?

10 A Well, it's more than that. It's more than the  
11 contractor. It's all the stakeholders that are  
12 involved. That includes us, as inspectors. If we're  
13 doing our job, then the people we're looking at our  
14 doing their job. It's just a chain reaction. So it's  
15 not just one entity. It's not one stakeholder. It's  
16 everyone together.

17 Q And just like all the stakeholders involved in the  
18 process, any one of these stakeholders, including the  
19 contractor has the potential to be a weak link in the  
20 chain?

21 A Oh definitely. No question about it.

22 **CROSS-EXAMINATION BY ATTORNEY ROCHWARG:**

23 Q If I may be permitted to do so, I just have a few follow  
24 up questions. Good morning everyone. Good morning Mr.

1 Marini.

2 A Good morning.

3 Q You had mentioned that you were previously employed by  
4 NTSB?

5 A That's right.

6 Q Pipeline Specialist?

7 A Yes.

8 Q Are you aware of the NTSB position regarding the  
9 sufficiency of pipeline regulations currently in  
10 existence?

11 A Could you repeat that?

12 Q Are you aware of the NTSB position regarding the current  
13 pipeline regulations and the sufficiency thereof?

14 A Sufficiency?

15 Q Correct.

16 A Yes.

17 Q What is your understanding of the position of the  
18 National Transportation Safety Board? Are you aware of  
19 whether there are any proposed changes to those  
20 regulations which would beef up enforcement, if you  
21 will, of the pipeline regulations?

22 A NTSB, as I mentioned, they're an independent agency  
23 which is unique to the federal government. They answer  
24 to the President only. And when they go out and do an

1 inspection or investigation, their responsibility is to  
2 determine probably cause and make recommendations.  
3 Those recommendations will go out to operators,  
4 companies, associations and also to the Office of  
5 Pipeline Safety which is the regulatory arm of the feds.  
6 I would have to say that probably in all of their  
7 investigations they always will find an area that they  
8 can find some deficiency in the federal regs. The  
9 federal regs, you've got to understand are performance  
10 language. They tell you what to do but not how to do  
11 it. They've been in effect since, you know, we're  
12 talking 30 years now. That's why I'm on a committee to  
13 try to rewrite them and bring them up to current  
14 thinking.

15 Q Which brings me to my next question actually. You  
16 mentioned that you are on a -- that you are co-chair of  
17 a committee reviewing the federal regulations and you  
18 will be making recommendations to change those federal  
19 regulations. Can you suggest to the Committee what  
20 changes, if any, you will be recommending to those  
21 federal regulations that you might recommend would be  
22 appropriate for this pipeline being proposed by  
23 Tennessee Gas?

24 A Well, the sections of 192 that we're going to be

1           addressing in a couple of weeks is Subpart J, K, and L,  
2           which really has to do with testing and M,N,O,P and up-  
3           rating. So I think -- I don't think in those particular  
4           areas there's going to be anything that will or should  
5           affect this project. There's several subparts in here.  
6           We're going after the areas that are gray and we're  
7           having problems with enforcing and companies  
8           understanding what their requirements are in that so  
9           right now I can't tell you anything other than just J,  
10          K, and L that we'll be addressing. When we get into the  
11          other subparts I'm sure that there are some areas but  
12          right now I don't think that what we see proposed here,  
13          I don't see anything that would be a problem in any  
14          changes in the future.

15        Q     Other than the changes that you've recommended?

16        A     Yes, correct. The pigging is a very hot issue across  
17          the country. My national association has been working  
18          on this for a number of years now trying to establish  
19          some sort of a standard for operators to accept.

20        Q     To go back to the issue of pipe toughness, you had  
21          mentioned that you feel that it's a very critical  
22          consideration. I know that counsel for Tennessee Gas  
23          has indicated that the new specifications provide for  
24          the use of the PSL2. Do you know who will be

1 responsible for assuring that PSL2 is actually  
2 installed?

3 A Well, as I mentioned, when I get the specifications that  
4 the Company is proposing, I will turn this over to my  
5 consultant. I think in the other projects that we had  
6 what had happened was -- you have to do some testing at  
7 the mill to make sure that you're getting what you're  
8 paying for. Some of those tests that were performed,  
9 the results of those tests were sent to my consultant in  
10 Washington to verify that yes, the run of pipe that  
11 you're getting is what we originally wanted.

12 Q And you've indicated they're tested as the pipe arrives,  
13 is that correct? If I understand.

14 A No. It's tested at the mill.

15 Q At the mill. Are they again tested in the field? In  
16 other words, once the pipe is installed in the field, if  
17 I were a citizen of Londonderry can you provide me with  
18 a level of comfort to assure that that PSL2 pipe is  
19 actually installed where Tennessee Gas indicates that  
20 it's going to be installed? In other words, is it  
21 inspected in the field again by anyone?

22 A I don't think there's any way you can do that in the  
23 field. It's something that is done at the mill to  
24 verify that that's what they're getting. As far as

1 other tests that are done, we've talked about  
2 hydrostatically testing the pipe and also internal  
3 inspection and also the other inspections that are done  
4 prior to them getting the pipe in the ground. I think  
5 all of those should give you a high level of comfort as  
6 far as the pipeline being safe to operate.

7 Q You had recommended requiring the use of padding machine  
8 which you had indicated was used on the PNGTS-M&N  
9 pipeline in New Hampshire which allows, as I understand  
10 it, the use of only a certain size rock for backfill?

11 A That's correct. It wasn't a requirement. We didn't  
12 have a requirement. It was a suggestion that they  
13 utilize it in areas that would be beneficial and the  
14 Company, both PNGTS and M&N said that they would utilize  
15 it wherever it would be able to use it efficiently.  
16 When you're blasting in ledge you can't use it. You'd  
17 got to bring in backfill material. There are areas  
18 where you just can't use it, the machine. But it is  
19 beneficial as far as moving the pipeline along and cost  
20 efficient, I think, in a lot of cases.

21 Q So would that be something that you would leave up to  
22 Tennessee Gas or would it be something that you would  
23 consider imposing as a requirement, would be voluntary?  
24 How would you suggest to the Committee that such a

1 recommendation for using a padding machine be  
2 implemented?

3 A Well, like I said, I want to be consistent and it wasn't  
4 required before and I guess if the Company doesn't want  
5 to use it; they don't think it's efficient, or cost  
6 effective then that's fine. But if they don't use it,  
7 then we'll be making sure that our inspections are even  
8 closer -- our scrutiny will be more so, because I'm a  
9 firm believer that the backfill material is critical in  
10 giving you that level of safety that's necessary.

11 Q By any chance, and I don't know when the construction --  
12 the newly modified construction specifications in this  
13 particular instance came about, however have you had an  
14 opportunity to compare the construction specifications  
15 on the PNGTS-M&N line with those proposed by Tennessee  
16 Gas? And if you haven't had an opportunity, do you  
17 intend to compare them prior to commencement of  
18 construction in this particular instance?

19 A I definitely would be comparing them.

20 Q Just a couple of more questions. You had mentioned in  
21 your direct testimony that you had been consulting with  
22 an OPS director of the Eastern Region who had  
23 recommended a baseline on new pipelines, that it had  
24 advantages. Could you tell us a little bit more about

1 what those advantages would include?

2 A Well, I think they pretty much mirror what I had said,  
3 what you can pick up with your internal inspection.  
4 We're not talking just corrosion with an MFL unit. You  
5 can pick up gouges and scratches and in some cases  
6 laminations, imperfections. Like I said, some  
7 imperfections not necessarily would affect the integrity  
8 of the pipeline and others have the potential of  
9 affecting it. So there are areas that he felt would be  
10 an added benefit to doing a baseline on a new pipeline.  
11 There's a lot of human error that can happen here. A  
12 lot of construction defects that can happen. This is  
13 the frosting on the cake. Not only that you've got that  
14 thumbprint for the future. You've got something to  
15 compare to. This imperfection has gotten bigger,  
16 something's wrong here. Also it's a scenario.

17 Q As a follow up question to and along the same lines on  
18 the issue of quality control and the fact that inherent  
19 in virtually any construction project, if not all  
20 construction projects, there are always field changes.  
21 There are always defects to the contractor's  
22 performance. What assurances can you provide the  
23 citizens of Londonderry that either the state or someone  
24 else will ensure that the contractors Tennessee Gas

1 ultimately hires or contracts with, will perform in  
2 accordance with the contract specifications?

3 A I can give you my guarantee that the Safety Division  
4 will do their job and not only for the citizens of  
5 Londonderry but for the State of New Hampshire. That's  
6 our job. We will be out there inspecting and we'll be  
7 inspecting everything from soup to nuts. I can  
8 guarantee you that.

9 Q I don't have any further questions at this time. Thank  
10 you.

11 CHAIR: Members of the  
12 Committee? Michael?

13 **EXAMINATION BY COMMISSIONER CANNATA:**

14 Q I want to go back over the cross, Mr. Marini, and there  
15 are some area which I think responses may have been a  
16 little bit inconsistent. I want to make sure that the  
17 record is left in the manner in which you probably would  
18 desire it to be left. We've eliminated any questions on  
19 the pipeline specs, but the question on utilizing Class  
20 3 within 300 feet of the school property, do you believe  
21 that this would also allow a safety factor for future  
22 growth should it occur near the pipeline?

23 A Well, there's two things that can happen here. Number  
24 one, the Company is responsible for evaluating their

1 pipeline to see if there are any changes in class  
2 location. They have absolutely no control on what can  
3 develop in an area around their pipeline. We're looking  
4 at a Class 3. The next class up would be a Class 4.  
5 Now you're talking high rises. Can that happen? Not in  
6 my lifetime. I don't know. Unless Londonderry's got  
7 some plans or any other towns got some plans, but that's  
8 the only other scenario I can see. But they're  
9 responsible for evaluating their pipelines and if they  
10 do, if there is a change in class then they have to make  
11 efforts to do some changes.

12 Q Do you think that this is an effort that at least  
13 addresses that concern in your mind by going to the  
14 highest class pipe except for high rises in the  
15 Londonderry area?

16 A I feel comfortable.

17 Q Now I'm going to cross over into Northern Ireland and  
18 talk about pigging there. I believe you made the  
19 statement that you could not guarantee or ensure the  
20 integrity of the pipeline without an intelligent pig  
21 run. Yet your recommendations state that you would  
22 require it within the first three years. Now what I  
23 draw from that is -- and your final comments on calling  
24 the intelligent pig run a frosting on the cake that

1           you're taking the margin of safety on the safe system  
2           and making it safer. Is that correct?

3    A    Yes.

4    Q    You also indicated that ENI would be doing a smart pig  
5           run on their section of the pipe which was running at  
6           the same pressure on the lateral over to the proposed  
7           AES plant. When would that pig run be done in  
8           connection with construction?

9    A    That's still under discussion because I believe last  
10           year when we were having some dialogue with Tennessee  
11           about any type of pigging done, there were different  
12           scenarios on, well, if we don't do it, but if we do it,  
13           maybe the best time to do it is prior to operation. I  
14           had mentioned it to EnergyNorth that I thought it would  
15           be a good idea for them to work with Tennessee with not  
16           only maybe utilizing the same contractor and saving some  
17           money because it's mobilizing contractors that are from  
18           a different part of the country with, you know, if  
19           you've got one contractor coming up here to do the job,  
20           he might as well do the whole thing and save some money.  
21           And the pigging would be the same thing. If they're  
22           going to be coming up and bringing in a contractor to do  
23           the pigging, he might as well do the lateral also. You  
24           can save some money there. So right now it's -- it

1 hasn't been finalized on when it's going to be done.

2 Q In summary, your intent was that whatever was going on  
3 in the ENI branch or lateral line, was entirely  
4 consistent with what we're talking about here today?

5 A That's exactly right. The lateral is no different than  
6 the main line. Even though the lateral is considered an  
7 intrastate lateral and the main line is an interstate  
8 line, as far as operations, I consider it the same.

9 Q When we were discussing operation maintenance plans and  
10 emergency plans you requested that a condition be put  
11 into the certificate if it's issued that prior to  
12 operation and prior to operation meaning May 1, 2001 I  
13 believe, that those plans be reviewed and was it "and  
14 approved"? Because I thought I heard reviewed and  
15 approved and I thought I heard reviewed, at two  
16 different stages of the testimony. I just wanted to  
17 clear that up.

18 A I want to be consistent, so if you'll give me a minute.

19 ATTORNEY WAGELING: I think I had  
20 interjected "and approved" at the end of your comments,  
21 so I'm sorry if I confused the record.

22 COMMISSIONER CANNATA: And I wasn't sure  
23 where it came from.

24 A I guess to be consistent with the other projects that

1 we've had here, I don't see the word "approved". It  
2 just says that it will be filed. I would have to say  
3 that OPS will also be reviewing those O&M Emergency  
4 Plans. As a matter of fact, when we did the PNGTS-M&N  
5 I asked them to be with me to review those plans also.  
6 So if there are any deficiencies in the plans, OPS will  
7 take it from there and address those issues.

8 Q You'd be acting as their agent in that regard for PUC?

9 A Yes. I can inspect but I can't enforce as an agent. So  
10 my concern --

11 Q Sort of like being a supervisor.

12 A My concern is the O & M plan. I like to look at it and  
13 make sure that it's a good plan. The Emergency Plan is  
14 really the one that I'm concerned about for the State of  
15 New Hampshire in that it covers all the areas along the  
16 right-of-way, all the towns. To make sure that it's  
17 site specific and it can't be generic. It's got to be  
18 site specific so that emergency phone numbers have got  
19 to be there for all the towns. And all the emergency  
20 response type of people, how they're going to educate  
21 the people. Their line markers and what they mean and  
22 all that. There's so much involved in it but it's so  
23 important to letting the people along the right-of-way  
24 to know what they have there and how they would react to

1 an emergency. How quickly they'd -- you know if they  
2 smell gas, what do they do? If they see construction on  
3 the pipeline to call the number to protect that  
4 pipeline.

5 Q Thank you. The next area I'd like to delve into a  
6 little bit, concerns your office acting as an inspector  
7 and the blasting inspector. You were here yesterday  
8 during testimony where I think your recommendation was  
9 agreed to by the Company to have a blasting inspector  
10 being a Department of Safety?

11 A Yes.

12 Q And in terms of your responsibilities, your inspection  
13 responsibilities, were you also here when the Company  
14 committed to fund that position, that they weren't  
15 holding to the \$28,500 that appears in their response?  
16 That that was just the current estimate but they were in  
17 support of the activity that you were proposing.

18 A Yes. But I thought they were holding to the  
19 percentages. And those percentages aren't correct.

20 Q Well, then the number would not be correct.

21 A That's right.

22 Q So then they're not holding to the number.

23 A Yeah, but if the number went up, the percentage still  
24 dictates how much we're going to get.

1 Q So could we just then clarify maybe, perhaps, with the  
2 Applicant that -- is my statement correct that you're  
3 basically in support of the type of inspection that's  
4 been proposed and currently estimated at \$28,500 and I  
5 think this is a similar discussion to what we had  
6 yesterday?

7 ATTORNEY SMITH: That's right.

8 COMMISSIONER CANNATA: Okay. Thank you.

9 Q Then you talk a little bit about closeness of structures  
10 commending the Company for going to Class 3 within 40  
11 feet of the pipeline and you got into a dissertation  
12 whereby you said that the feds would never put a  
13 specification of distance in their regulations. Isn't  
14 that basically imbedded in there by going to the  
15 classes? Isn't there some type of a distance or safety  
16 factor in there?

17 A Well, to some extent yes, but if you have a 20 foot  
18 right-of-way, or 25 foot right-of-way, even a 50 foot  
19 right-of-way and then you get a development coming up  
20 right on that pipeline --

21 Q I guess that's just my point. You were talking about  
22 the local level control being the regulation of how  
23 close you could put buildings to a pipeline, not how  
24 close you could put a pipeline to buildings.

1 A That's correct.

2 Q Okay.

3 A I'm faced with this all the time. I get calls from  
4 towns wanting to know if there's any state requirement  
5 on how far you can be from a pipeline. We can get into  
6 all sorts of requirements on how to put the pipeline in  
7 but once it's in there, there's no state requirement or  
8 federal requirement that says that you have to be so far  
9 away. That's really local jurisdiction. The Zoning  
10 Board.

11 Q In the discussion regarding the update to current  
12 federal standards, 192, when you talked about doing  
13 subparts J, K, and L currently, off bringing them up to  
14 snuff. You were not indicating that the current  
15 standards were inadequate, were you?

16 A They're not inadequate. They're minimum.

17 Q Minimum safety margins?

18 A Right.

19 Q Okay. From recommendations from organizations such as  
20 NSTB, industry and others, you're always striving to  
21 improve just as they do after an aircraft accident, they  
22 go through maintenance procedures or whatever for the  
23 particular aircraft and make good -- better you do that.  
24 Is that the type of process that's going on?

1 A Yes.

2 Q Okay. Lastly, in terms -- you mentioned that there were  
3 performance standards and that you need to interpret  
4 them to wind up with a safe system. Is that what we're  
5 doing here in this Committee? Taking those performance  
6 standards, putting flesh on them and making a safe  
7 system out of it? Is that what your recommendations do  
8 if adopted by the Committee?

9 A I think in some cases, yes, that's correct.

10 Q In what cases wouldn't it be?

11 A Well, an example would be welding. The specifications  
12 or the requirements that are in the regulations right  
13 now require X-raying of the welds. That's something  
14 that we required -- it was a condition for our previous  
15 applicant PNGTS but yet it's nothing that was greater  
16 than what is already here.

17 Q It's 20 percent of the federal level? Or is it 100  
18 percent?

19 A It's 100 percent for transmission.

20 Q Okay. The last line of discussion was comparing PNGTS  
21 standards to those of the proposed pipeline. In some  
22 cases -- you know, first of all, excuse me, let me start  
23 again. It's not your intent that the construction  
24 standards have to be the same, is it? In some cases --

1 A Not necessarily the same, but I think there are areas  
2 that we should be consistent.

3 Q In some cases construction standards for Tennessee could  
4 be stricter? In some cases it could be looser? Just  
5 because of geography. I'm building a pipeline 100 miles  
6 into the north woods may allow one construction standard  
7 but in the backyard where you have buildings and in  
8 urban areas it would be something different?

9 A That's correct. We also -- you know, companies operate  
10 differently. Their philosophies are different. That  
11 doesn't mean that one is safer or one less safe than the  
12 other. It's just a different way of doing something.  
13 That should be acceptable.

14 Q Just as the toughness standards for the pipe may be  
15 different in southern New Hampshire than they are in  
16 northern New Hampshire.

17 A That's correct.

18 Q That's part of the review you want to do with the people  
19 in Washington?

20 A That's correct.

21 Q Okay. Thank you that's all the questions I have.

22 CHAIR: Nancy?

23 **EXAMINATION BY COMMISSIONER BROCKWAY:**

24 Q Good morning Mr. Marini. I just had one area of

1 questions. I'm a little bit confused about the  
2 contribution by the Applicant towards cost of  
3 inspection. On the one hand the flavor of some of what  
4 I heard you testifying this morning was the money is  
5 getting tight. It's getting harder to have sufficient  
6 staff to do inspections as you would like. And on the  
7 other hand, I heard a very firm commitment that you  
8 guarantee that there will be adequate inspections.  
9 Maybe I'm mixing apples and oranges but if you could  
10 clarify that for me so that we could be assured that the  
11 guarantee was backed up by sufficient resources.

12 A I would present to the Commission and for the  
13 Committee's information, I still haven't run this  
14 through them, and I would get my Commission's approval  
15 to hire a consultant similar to what we did with PNGTS.  
16 This person that I would be looking for is -- I'm not  
17 looking for an engineer necessarily, or a Ph.D. I'm  
18 looking for a hands on person who knows everything from  
19 soup to nuts as far as the transmission construction.  
20 We did that with PNGTS and that person did such a  
21 fantastic job for the State of New Hampshire that the  
22 federal government hired him a year later to do the rest  
23 of the project up in Maine. So I was very fortunate to  
24 find this person and I think he did one heck of a job

1 for us. And he was a full timer. He was -- he lived  
2 out on the pipeline. He had a mobile home that he  
3 parked out there and he worked out of his mobile home.  
4 He was on the project 100 percent. Myself and my other  
5 inspector supplemented that to add more inspection days  
6 to being out in the field. I think that type of program  
7 would be sufficient for this project. But that would  
8 mean hiring a full timer for the five or five and a half  
9 months or whatever for this project.

10 As far as the money aspect of it, I would have to  
11 submit to Washington a change in my budget for the  
12 calendar year 2001 to include this added cost to the  
13 State of New Hampshire. Those percentages are, as I  
14 said last year, was 41 percent that we got from the  
15 feds. The other 59 percent was picked up by our  
16 operators. I think that number is going to change to  
17 maybe 40 percent or even 39 percent of the cost. What  
18 I would be recommending is that the cost be shared, not  
19 necessarily equally, between the Applicant and the  
20 Office of Pipeline Safety. Whatever our costs are and  
21 the percentages that are paid to by OPS then the rest of  
22 it would be picked up by the Applicant.

23 Q I think implicit in what you're saying but I just want  
24 to make sure that it's explicit is that if this proposal

1           were to be approved by the Commission here that you  
2           would not foresee any difficulty, notwithstanding the  
3           problems of the federal budget, in getting this  
4           additional money from the Office of Pipeline Safety and  
5           also getting the agreement of the Applicant to pay in  
6           their share?       Is that a fair assessment or  
7           characterization?

8    A    Yes.   I don't think there's -- as far as the Office of  
9           Pipeline Safety, I've already had discussions with the  
10          director there.   They're very anxious for us to be  
11          involved again.   We did -- I think we did an excellent  
12          job on the previous project and they were happy with our  
13          work and our inspections and our reports and everything  
14          else.   This is just, it helps them out because they have  
15          limited inspectors also.   So by us helping them out in  
16          this case, it helps free up their people.   Their people  
17          will still be on site.   They still have inspectors that  
18          will be coming in, not as often as we will be there, but  
19          they will supplement also.   So there will be essentially  
20          four of us out there.   Maybe not at the same time.

21   Q    Thank you.

22                   CHAIR:                                   Other questions from  
23           the Committee?   Brook?

24   **EXAMINATION BY COMMISSIONER DUPEE:**

1 Q Thank you Mr. Chairman. Just a question about -- you  
2 talked about the determination in regards to a defect in  
3 the tubing, the piping. Can you describe for me what  
4 that term actually means?

5 A Okay, I'm not an expert in the field, but it's my  
6 understanding that when the pipe is rolled, you can get  
7 some type of material in there that would cause the pipe  
8 to laminate. Similar to -- what can we make that?

9 Q Overlapping of steel is what you're saying?

10 A Yes.

11 Q Accordion effect?

12 A Yes.

13 Q Thank you.

14 **EXAMINATION BY CHAIR:**

15 Q A question I have, Mr. Marini, what we heard earlier in  
16 this hearing, you may not have been here about the fact  
17 that two schools are under construction adjacent to the  
18 pipeline. Did either of those communities consult with  
19 you or your office prior to that construction?

20 A No sir. Not that I'm aware of.

21 Q Are you aware of any local regulations and I realize you  
22 probably haven't done any sort of exhaustive study of  
23 this so, I'm not suggesting that you have, but are you  
24 aware of any local regulations that relate to the

1 setbacks from a gas transmission line right-of-way that  
2 exist in Pelham or Londonderry?

3 A I'm not aware of any setback requirements on the  
4 federal, state or local level.

5 Q That doesn't mean that they may exist. Just that you're  
6 not aware of them?

7 A I'm not aware of them.

8 Q Okay. Just curious about that.

9 A Like I mentioned, I have received calls from communities  
10 asking about it and I informed them that there aren't  
11 any on the federal or state and that we felt that this  
12 is more on the local level, that the local jurisdiction  
13 would be better to handle that as to how they want to  
14 develop their community.

15 Q Do you make recommendations? Do they ask you for  
16 recommendations? You indicated that didn't happen in  
17 these two communities.

18 A No. Not in these communities. I'm thinking of one  
19 other community that called me up this past summer, the  
20 developer was putting in a line, putting in a project  
21 next to Tennessee's line and they asked me -- this is  
22 when I told them that there aren't any restrictions or  
23 anything. But I said we do have under our 500 rules  
24 with the PUC we do have a requirement in there that

1           whenever you construct a pipeline within 40 feet of a  
2           dwelling, you have to get the approval of the PUC. So  
3           they -- the one community I was talking to, they said,  
4           "Well, we'll use your 40 feet." I told them, once the  
5           pipeline is in there, there's nothing. We don't have  
6           anything. But if the pipeline is going in then we can  
7           look at it and say, "Okay, if you're going to be 35 feet  
8           from this dwelling and we feel that certain things you  
9           should do to bring the level of safety where we're  
10          comfortable with", but that's the only instance where I  
11          gave them any kind of number and I said this is how we  
12          use it. You do whatever you want. We can't impose that  
13          on them.

14        Q     Are you aware of any state laws that would forbid  
15          communities from setting their own setback requirements  
16          from gas pipelines?

17        A     Not in New Hampshire.

18        Q     Okay. Thank you. Michael?

19        **EXAMINATION BY ATTORNEY M. IACOPINO:**

20        Q     I just have a couple of follow up questions. First of  
21          all, Mr. Marini, earlier in the proceedings we asked for  
22          the Applicant to provide a schematic indicating  
23          placement of the auto lose valve. Would that type of  
24          document satisfy your concerns to look at where these

1 valves are placed?

2 A Yes.

3 Q Secondly --

4 A As long as that includes both pipelines together acting  
5 together in operation. We have to have a schematic of  
6 both lines. Not just the 20 inch so we can know how  
7 it's going to work in relation to the other one.

8 Q You also testified about these federal regulations  
9 being, I take it Part 192 haven't been around for a long  
10 time. And Mr. Cannata asked you if, in fact, they are  
11 informed by agencies like the National Transportation  
12 Safety Board. Do you recall that?

13 A Yes.

14 Q It's my understanding that it's Chapter I of the Part  
15 192 which relates to safety features, is that correct?

16 A Well, all the subparts refer to safety.

17 Q But isn't Chapter I, that's where all the class  
18 locations, pigging, pipe design and those sorts of  
19 things are?

20 A That's subpart I.

21 Q Subpart I. I'm sorry. It's true, isn't it, that that  
22 section has been amended, was amended in 1998, is that  
23 correct?

24 A No wait, I stand corrected. Subpart I is corrosion.

1 Q Isn't it Chapter I? Title 49. Chapter One I should  
2 say. Chapter One. I'm sorry, I'm reading it as an I.

3 A You're not under 192. Are you referencing 192?

4 Q Title 49. Chapter One, Part 192.

5 MR. RICHARDSON: Actually that's  
6 normally referred to as Volume 49, Part 192 point  
7 whatever and it is in the first section which you  
8 referred to as (inaudible) and it has some other bugs in  
9 it too.

10 Q Let me put it this way, Part 192, you're familiar with  
11 that?

12 A Yes.

13 Q And Part 192 contains safety requirements?

14 A Yes.

15 Q And that part was, in fact, amended in 1998. Are you  
16 familiar with that?

17 A Yes. There are have several amendments to that.

18 Q Do you consider the amendments as far as safety issues  
19 go to be significant amendments in 1998?

20 A I do so.

21 Q Prior to that they were amended in 1996. Are you  
22 familiar with that?

23 A Yes.

24 Q And with respect to safety issues did you consider that

1 the amendments in there to be significant as well? '96?

2 A Yes.

3 Q I have no further questions.

4 A One other thing about the NTSB making recommendations to  
5 OPS on changes to this also, our association, National  
6 Association of Pipeline Safety Reps, we also make  
7 recommendations to OPS for changes in here. There are  
8 several organizations that do it. The American Gas  
9 Association or their transmission association, ANGA,  
10 they can also request changes. So it's --

11 Q It's true, isn't it, that the Department of  
12 Transportation in the issuance of these regulations  
13 will often modify them or amend the regulations to  
14 reflect what all these various agencies and groups are  
15 recommending?

16 A That's correct.

17 Q Thank you.

18 CHAIR: Jeff?

19 **EXAMINATION BY COMMISSIONER TAYLOR:**

20 Q Mr. Marini, I'd like to clarify the situations in which  
21 a developer would need to get to get permission from the  
22 PUC. As I understood your testimony it would be for  
23 construction within 40 feet of the pipeline, is that  
24 correct?

1 A No. Not the developer. If a distribution company was  
2 to install a pipeline within 40 feet of a dwelling,  
3 that's operating at over 200 pounds, they would have to  
4 get our approval.

5 Q Is that 40 foot distance and your related approval a  
6 safety based concern or the need perhaps in the future  
7 to get a construction easement for maintenance? What is  
8 the basis for the concern within 40 feet?

9 A You had to ask me that. I did some research and to be  
10 honest with you I can't find out where they came up with  
11 the 40 feet. Or how they came up with the 40 feet. By  
12 coincidence, and I talked to some of my other colleagues  
13 in New England and they have the 40 feet and nobody  
14 knows where the 40 feet came from. But it's in our regs  
15 and we -- several years ago I sat down with my operators  
16 and we reviewed all of our regs to bring them up to  
17 speed and that was one that we all researched and  
18 couldn't find out where it came from. But we felt,  
19 let's leave it in there, it kind of keeps us on our toes  
20 and when you're talking pressures of 200 pounds and  
21 more, you've got to scrutinize it a little more than you  
22 would on a lower pressure line. So we just left it in  
23 there and we work with that accordingly. It pretty much  
24 leaves it open for discussions because all it says is

1 PUC approvals which means they come in here and we sit  
2 down and say, "Okay what are you going to do?" and we'll  
3 review with them their intent on installing a pipeline.  
4 If we feel that they're taking all the precautions that  
5 they should, the Commission will approve it and that  
6 will be it.

7 Q Thank you.

8 CHAIR: Any other questions?

9 ATTORNEY V. IACOPINO: Mr. Chairman, just a  
10 follow up. Can we ask the Company at this point, if  
11 they would agree to supplying the alignment chart that  
12 Mr. Cannata asked for for both lines?

13 ATTORNEY SMITH: The location of the  
14 valves?

15 ATTORNEY V. IACOPINO: Yes.

16 COMMISSIONER PATCH: While we're on that  
17 subject of asking the Company questions like that, I  
18 guess Mr. Marini had indicated in terms of the  
19 purchasing specifications on the pipe if the Company  
20 would provide that? I'd like to know if the Company  
21 will?

22 CHAIR: Could you repeat the  
23 question before you answer it?

24 ATTORNEY SMITH: Yes. I think the

1 question was would the Company be willing to provide  
2 it's purchasing specs as were discussed in this  
3 morning's hearing. That it would utilize in acquiring  
4 the pipe from the mill. And it's construction  
5 specifications. And I understand the Applicant to say  
6 that it would provide those to governmental review but  
7 it has the concerns expressed earlier about maintaining  
8 appropriate control of those documents. None of them  
9 given to competitors or generally available to the  
10 public which would accomplish that purpose. They have  
11 no objection to providing them appropriately for  
12 government review if we could fashion a way to do that.

13  
14 CHAIR: Okay. Thank you.

15 COMMISSIONER CANNATA: I would suggest  
16 perhaps maybe the system that we set up for the other  
17 documents would work if it was put into counsel's hands,  
18 if they could be looked at there?

19 ATTORNEY SMITH: I wasn't actually, I'm  
20 sorry I wasn't suggesting that. But more like the way  
21 OPS reviews these documents. You will have, I assume,  
22 an arm of the PUC that will have joint responsibility as  
23 an OPS agent and I would start by trying to fashion it  
24 that way so that these things can be reviewed and

1 commented on and so forth, but they do not come into the  
2 public process. They don't at the federal level, we'd  
3 like not to do that here if you'll allow that.

4 CHAIR: But it would limit it  
5 to review by state and federal experts.?

6 COMMISSIONER BROCKWAY: I just wanted to ask  
7 Mr. Smith to confirm the answer that was given off the  
8 mic to the earlier question about the valve  
9 specification, because I don't think it was picked up.

10 ATTORNEY SMITH: Yes. It is my  
11 understanding that the schematic drawing that is  
12 prepared by the Applicant will show valve locations on  
13 the proposed new pipeline and the interconnected  
14 existing pipeline.

15 CHAIR: Any other questions?

16 ATTORNEY SMITH: Mr. Chairman, could I  
17 just clarify just one point?

18 **RE-CROSS-EXAMINATION BY ATTORNEY SMITH:**

19 Q I guess just to be sure that there's clarity of  
20 understanding mostly. There was testimony, Mr. Marini,  
21 if I heard it correctly that the current federal  
22 regulations require X-ray examination at 100 percent of  
23 the weld locations and I think you may have heard the  
24 testimony from the Applicant that they were going up to

1 100 percent on this route. That was their statement,  
2 that it exceeded federal regulations. Did I understand  
3 you correctly to say that that is the federal  
4 regulation?

5 A I thought it was.

6 Q Okay. I just want to get that cleared up if I can. Is  
7 this the regulation we're all referring to? I'm  
8 pointing to 49CFR Section 192.243 captioned Non-  
9 Destructive Testing. Is that the right one?

10 A Yes.

11 Q Would you like a moment to look at it?

12 A I'm so used to 100 percent welding -- X-raying. It's  
13 Class 3 and 4 that requires 100 percent. In this  
14 instance, there is Class 2 and the Company will be  
15 exceeding that in those areas.

16 Q Thank you very much. I have no further questions.

17 CHAIR: Thank you. It's now  
18 five of twelve so I think it would be best to break for  
19 lunch and then we'll pick up with the continued  
20 environmental panel that we started earlier today.

21 (Off record for break)

22 CHAIR: We're continuing with  
23 the application of Tennessee Gas Pipeline Company the  
24 Londonderry 20 inch replacement project docket #00-01.

1 I would like to call on a member of the public who would  
2 like to speak. I don't know if counsel for the  
3 Londonderry Neighborhood Coalition would like to  
4 comment?

5 ATTORNEY ANDREWS: I have a quick oral  
6 motion to make. It will take 30 seconds, Mr. Chairman.  
7 We just need to orally move to remove Mr. Kelvin Kerns  
8 from our revised witness list. He is not a member of  
9 the LNC.

10 CHAIR: Okay. But he would  
11 like to speak?

12 ATTORNEY ANDREWS: That's right. He  
13 would now like to speak on behalf of the public. Yes.

14 CHAIR: Okay. Thank you.  
15 Also before we call on him, I note that the Town of  
16 Londonderry's legal counsel has not been here this  
17 morning.

18 ATTORNEY M. IACOPINO: Mr. Chairman, she  
19 advised me yesterday she would not be able to be here,  
20 she would try to send somebody from her office but she  
21 clearly understood that the proceedings would continue  
22 through today whether she, her client, or another  
23 representative of her office was present or not.

24 CHAIR: Okay. Thank you. Mr.

1 Kerns?

2 MR. KERNS: Good Afternoon. Thank  
3 you very much for letting me speak out of turn and thank  
4 you to the Committee for listening to my comments. I  
5 wrote a letter to the Federal Energy Regulatory  
6 Commission and as part of the comment to their  
7 environmental assessment and I'd like to share just five  
8 of these comments with the Committee.

9 First, Tennessee Gas is going to conduct a safety  
10 training for Tennessee Gas inspection crews and the  
11 construction contractors and personnel prior to  
12 construction. I'd like you to require the Londonderry  
13 School District, its administration, and Town officials  
14 to also receive this training.

15 My second point is in this environmental assessment  
16 they had alternate selections for route of this  
17 pipeline. As you know, it runs adjacent to the middle  
18 school. One of the alternates, 104I, suggests a 300  
19 foot buffer around the middle school. I would like you  
20 to consider this as an option. It certainly makes more  
21 sense and the direct route is merely a construction  
22 convenience.

23 The third point I would like to make is, I'd like  
24 the students and the parents of the Londonderry School

1 District to have abutter status. Those people who are  
2 truly -- whose homes abut the pipeline and they don't  
3 know anything about this. I think it's important that  
4 the parents have the same information available to them  
5 as abutters.

6 Fourth, the DOT minimum Federal Safety Standards  
7 suggest several types of pipelines to be built dependent  
8 upon the number of the concentration of people living  
9 adjacent to that pipeline. There are 4,000 students at  
10 these school facilities. I would like the Committee to  
11 consider upgrading this pipeline to a Class 4 pipeline.

12  
13 The last point I would like to make is that the  
14 environmental assessment suggests that there are no  
15 greenhouse gas emissions from this pipeline because this  
16 is considered just a pipeline, it's not considered as an  
17 entire project. I think that considering one part of  
18 the entire project is not unreasonable for  
19 consideration. As a whole, this pipeline will certainly  
20 contribute to the gases. It also took into no effect  
21 the fuel oil burned at this facility one out of every 12  
22 days. Also, it did not consider what would happen if  
23 the power plant was built at much smaller scale.  
24 Particularly one that didn't need to have a pipeline

1 upgrade. I'm not a technical engineer. I'm a molecular  
2 and cellular biologist. I'm a resident of Londonderry  
3 and I hope that you will give these points consideration  
4 when you decide on this project. Thank you.

5 CHAIR: Thank you very much.  
6 Thanks for coming today. We're now ready to continue  
7 the panel on environmental issues.

8 ATTORNEY SMITH: If I may, Mr.  
9 Chairman?

10 CHAIR: Yes.

11 ATTORNEY SMITH: Two or three brief  
12 things before we start this afternoon's testimony? It  
13 was my understanding that Mr. Kern's pre-filed testimony  
14 and because he has asked to withdraw as a witness, that  
15 particular document be stricken?

16 CHAIR: Yes.

17 ATTORNEY SMITH: And I think I  
18 understand that Valerie Mazzola, who commented  
19 yesterday, would like to speak today as a witness so I  
20 just want to make that clear, if that's correct?

21 ATTORNEY ROCHWARG: That's correct. We  
22 had that conversation earlier, as you know Greg, and the  
23 witness approached me this morning and suggested that  
24 she would like to testify as part of the LNC.

1           Apparently yesterday she was unavailable to come back  
2           today and wanted to give her statement as public comment  
3           because she was afraid she was not going to be able to  
4           return today. She would, however, and I explained to  
5           her -- like to testify today. I explained to her that  
6           she will be subject to cross-examination today and she  
7           understands that. I did explain that to counsel for the  
8           Committee, Michael Iacopino. I had a conversation with  
9           him prior to the commencement of the afternoon hearings  
10          and Mr. Iacopino was kind enough to let us give this  
11          explanation to yourself, Mr. Chairman and Mr. Vice-  
12          Chairman as well as the members of the Committee. So to  
13          avoid any possible misunderstanding, I think that Ms.  
14          Mazzola is prepared to explain the circumstances under  
15          which she is returning today and is able to provide full  
16          testimony before the Committee and she was, as Mr. Smith  
17          pointed out yesterday, part of the direct pre-filed  
18          testimony on behalf of the Londonderry Neighborhood  
19          Coalition.

20                   CHAIR:   Will she, to save  
21                   time, simply allow her prior testimony to stand so that  
22                   we don't have to repeat everything?

23                   ATTORNEY ROCHWARG:                   I don't see that  
24                   there's a problem with that. If I can just verify with

1 my client? That will be fine. Thank you, Mr. Chairman.

2 ATTORNEY SMITH: A couple of other  
3 matters. There was testimony that if anyone wants to  
4 come back as a witness we can do that. As I understand  
5 it yesterday, that there was a community meeting in  
6 Manchester in the spring of this year, I think everyone  
7 will recall. And I believe the correct explanation for  
8 that is that there was not a meeting of this public  
9 safety, informational type in Manchester in the spring  
10 of 2000. The last time a meeting like that was held was  
11 in 1998. I think the testimony was that those are held  
12 every couple of years and annual mailings occur. My  
13 client tells me that there were meetings to which people  
14 were invited in all three communities about this  
15 project. I think that may have led to the confusion on  
16 the witness's part. But I just -- if anyone would like  
17 to ask the witness, they may, but I wanted to clear that  
18 up.

19 CHAIR: Sure.

20 ATTORNEY SMITH: Because you had asked  
21 us who would have attended the meetings and it is my  
22 information that there was not such a meeting this past  
23 spring.

24 CHAIR: So they're not annual,

1           they're --?

2                   ATTORNEY SMITH:                   Every couple of years.

3                   CHAIR:                                    Periodic?

4                   ATTORNEY SMITH:                   That's what I'm told.

5                   CHAIR:                                    20 years, 30 years,  
6           periodic meetings?

7                   ATTORNEY SMITH:                   I think every two  
8           years they invite people to the meetings and every year  
9           they do the mailings. And people don't come to the  
10          meetings every two years.

11                  CHAIR:                                    Is that based on a  
12          requirement or a policy?

13                  ATTORNEY SMITH:                   I'm told that's a  
14          policy.

15                  CHAIR:                                    Which could change?

16                  ATTORNEY SMITH:                   Yes. I think that's  
17          been the practice.

18                  CHAIR:                                    Okay.

19                  ATTORNEY SMITH:                   The second thing, if  
20          I may, is yesterday the Committee asked if we would  
21          produce the 10K forms for the preceding years ending  
22          December 1998 and 1997. We supplied a copy of the form  
23          dated February 2000, for the year ending 1999 and I  
24          think that's Exhibit #A85. I have here the reports for

1 the two preceding years marked Exhibit #A89 and it's  
2 been suggested that we make more limited copies of this  
3 to Committee Counsel, to other Counsel if they'd like it  
4 but not a full set to the Committee and I'm just asking  
5 if that's how we ought to proceed in reproducing this?

6 ATTORNEY M. IACOPINO: I suggested that --  
7 they are the published versions from the Company. I  
8 suggested that just having the originals filed here,  
9 making sure that they got copies to the other parties.

10 CHAIR: Fine.

11 ATTORNEY M. IACOPINO: Rather than making 60  
12 copies. If anybody wishes them we can have them made up  
13 for you.

14 ATTORNEY SMITH: Good. Thank you.

15 CHAIR: Michael?

16 COMMISSIONER CANNATA: Mr. Chairman, getting  
17 back to Mr. Smith's first point regarding the meeting  
18 that I guess was not held in May of this year. I think  
19 the discussion was centering around that the Company  
20 periodically held meetings and it represented that not  
21 all communities took advantage of attending those  
22 meetings. If the last meeting was in 1998 I would like  
23 the request to stand to see who was invited and who  
24 attended the last meeting that was held and I think that

1 would answer my request if I may.

2 CHAIR: Okay. Good idea.

3 **RESUME DIRECT EXAM OF MR. AURIEMMA BY ATTORNEY ARNOLD:**

4 Q Thank you. Good afternoon. I'd like to return for a  
5 brief moment to Mr. Auriemma before we move on to Mr.  
6 Treddle to clarify something that I think might not have  
7 been completely clear when he testified earlier and that  
8 relates to Exhibit #27, which is the direct pre-filed  
9 testimony of Richard Stulgis. We had talked about -- or  
10 Mr. Auriemma you had testified as to what your  
11 understanding was in terms of reaching an agreement with  
12 Mr. Stulgis and the Office of Public Counsel regarding  
13 the nature of backfill trenching for intermediate water  
14 bodies and I was wondering if you would just state  
15 concisely for the Committee what Tennessee has agreed to  
16 do that you understand is acceptable to Public Counsel  
17 and at what water bodies?

18 A Yes. I apologize for the confusion I may have created.  
19 We were discussing the backfill of the gravel material  
20 into the trench of a wet crossing. We were going to  
21 apply that in full the entire depth of the trench at  
22 four locations along the pipeline route. I may have  
23 come across as sounding like we were going to do it in  
24 all locations, but as agreed to it's only going to be

1 four locations. Basically the three crossings of Beaver  
2 Brook and the one crossing of the pond within, I believe  
3 it's Muldoon Park.

4 Q Mr. Auriemma, before I let you off the hook here I'd  
5 also like to show you a couple of other exhibits which  
6 have been filed in this matter. They are Tennessee's  
7 Supplemental Filing #1 which is A-24 and Supplemental  
8 Filing #2 which is A-71. Can you just tell the  
9 Committee are you familiar with these documents?

10 A Yes, I am.

11 Q Were they prepared under the direction of Tennessee Gas?

12 A Yes, they were.

13 Q And they were submitted on your behalf to this  
14 Committee?

15 A That's correct.

16 Q Thank you.

17 ATTORNEY ARNOLD: We were discussing the  
18 water quality Draft Condition of DES which is C #6 and  
19 when we broke earlier today, related to the monitoring  
20 requirement and the different monitoring schedule that  
21 Tennessee Gas had proposed to DES. And I think what I'd  
22 like to do is move forward with a further discussion of  
23 that issue with Mr. Treddle. So Roger, would you please  
24 just state your name and business address for the

1 members of the Committee?

2 **DIRECT EXAM OF MR. TREDDLE BY ATTORNEY ARNOLD:**

3 A My name is John Roger Treddle. I'm with Northern  
4 Ecological Associates, 451 Persumscott Street, Portland,  
5 Maine.

6 Q Can you just briefly describe your educational  
7 background and work experience?

8 A I have a Bachelor of Science degree in forestry from  
9 Pennsylvania State University. Master of Science in  
10 Wetland Ecology from Duke University. I am a  
11 Professional Wetland Scientist, have been involved in --  
12 I'm a principal and vice president of Northern  
13 Ecological Associates. We specialize in the  
14 environmental aspects of energy development projects and  
15 have been involved with a variety of projects from  
16 project conception, environmental field surveys,  
17 permitting, construction monitoring, post construction  
18 monitoring. We've worked both on behalf of pipeline  
19 companies as well as regulatory agencies including the  
20 U.S. Army Corp of Engineers and the Federal Energy  
21 Regulatory Commission.

22 Q What is your role and responsibility as regards the  
23 project before the Committee?

24 A NEA was brought into the project this past summer to

1 assist with the permitting activities, to provide  
2 testimony in this proceeding and to prepare for the  
3 construction phase of the project.

4 Q Can you briefly describe for us as well, what your  
5 experience has been more specifically in terms of  
6 dealing with water body crossings and the issues that  
7 are presented as related to water body crossings in this  
8 project?

9 A I've been involved with a number of projects where we  
10 had to prepare site specific water body crossing plans.

11 I've been involved with like I said, basically all  
12 phases of the development of these projects from  
13 planning and implementation of the water body crossings  
14 during construction. I've also done turbidity  
15 monitoring and post construction monitoring.

16 Q Have you done research related to those issues as well?

17 A We've implemented on the most recent project in New  
18 Hampshire, the recent two projects in New Hampshire.  
19 The PNGTS project and the PNGTS-Maritimes & Northeast  
20 project. We implemented a comprehensive turbidity  
21 monitoring program during construction.

22 Q Let me show you what has been marked as Exhibit #67. It  
23 is captioned Direct Pre-filed Testimony of Roger  
24 Treddle. Can you identify that document?

1 A Yes.

2 Q Was it prepared under your direction? With your  
3 assistance?

4 A Yes, it was.

5 Q Do you wish to adopt it as your testimony here today?

6 A I do.

7 Q Let me direct you, please, to condition #6 and the  
8 proposed response by Tennessee Gas which was provided in  
9 Exhibit #62 to the State of New Hampshire and ask you if  
10 you could give us your understanding of that condition  
11 and the reasons for the proposal submitted by Tennessee  
12 Gas?

13 A Condition #6, as I understand it, was developed to go to  
14 the State Water Quality Standard for turbidity. Which  
15 is 10 MTU's, or Methometric Turbidity Units. This is a  
16 very stringent water quality standard that the State of  
17 New Hampshire has, primarily intended for long term  
18 point discharges in water bodies. We understand the  
19 condition has been proposed to address our activities in  
20 water bodies in an effort to ensure compliance with this  
21 10 MTU standard.

22 Q And in terms of the standard that's proposed by DES, how  
23 does the response from Tennessee Gas differ? What issue  
24 does Tennessee Gas take with that condition?

1 A Tennessee Gas agrees with the concept of a temporal and  
2 spatial mixing zone, which is what is proposed in the  
3 condition. We understand that in order to enable this  
4 type of construction there has to be this mixing zone  
5 read. What -- and we fully intend to comply with the  
6 water quality standard. The problem that we have with  
7 the condition as written is that it's extremely -- the  
8 monitoring component of it is extremely cumbersome and  
9 redundant in terms of the number of samples required and  
10 the various phases of construction that would have to be  
11 monitored.

12 Q Generally can you describe the number of monitoring --  
13 you know, the sampling that's required and how that  
14 compares with what Tennessee is proposing?

15 A The current conditions would require turbidity  
16 monitoring upstream and downstream of the crossing area,  
17 three to five individual, separate times during the  
18 construction. Each time for an extended period of time.  
19 So resulting probably at each crossing on the order of  
20 50 or so samples collected during construction. What we  
21 found in implementing the program on the PNGTS-M&N  
22 projects was that we saw a very similar pattern from  
23 stream to stream and we were documenting the same  
24 pattern over and over again that basically what you

1 would expect to happen when you do construction in a  
2 stream. Turbidity is created for a short period of  
3 time. It settles back down after a short period of time  
4 and the pattern is fairly consistent. So what we  
5 proposed is a much more manageable scaled back version  
6 whereby we would be monitoring during the period of time  
7 when there would be the greatest impact and based on the  
8 empirical data from the PNGTS-M&N projects the greatest  
9 of that impact occurs during the water barrier removal  
10 and final cleanup phases of the project. We're  
11 proposing to modify that so we have one sampling done on  
12 each stream.

13 Q And when you talk about empirical data from PNGTS you  
14 were involved in collecting that data and analyzing it?

15 A Yes, I was.

16 Q And I believe that that's attached to your pre-filed  
17 testimony as well at Exhibit #67?

18 A That's correct. That summary report for the PNGTS-M&N  
19 project.

20 Q That would be Attachment #4 I believe to that submittal.  
21 Is that correct?

22 A That's correct.

23 Q What did you learn from the analysis of data from the  
24 PNGTS project in terms of how the monitoring was of

1 value as required under that condition?

2 A Well, as I stated before, we documented repeatedly. As  
3 everybody anticipated in the development of the  
4 condition of the monitoring program, that there would be  
5 a short term elevation in the turbidity level in the  
6 stream. That would settle back down after a period of  
7 time. That each time there was activity in the stream.  
8 Like I said, it was a very comprehensive program, very  
9 logistically complicated working around the equipment.  
10 But what we basically documented was that when you cross  
11 the stream you create turbidity.

12 Q So is it your opinion then that the value of the  
13 additional -- that there is no significant value to the  
14 additional monitoring that was requested but, in fact,  
15 you could gain the same knowledge of circumstances and  
16 the impact of the activity by monitoring around the  
17 event as has been proposed?

18 A Yes. I feel that the level of sampling that is proposed  
19 in DES's current condition is in excess of what is  
20 required to generate valuable information.

21 Q Let me focus on one of the other issues that you've  
22 raised in your response, which is the logistical and  
23 practical considerations of the amount of monitoring and  
24 sampling that's being proposed in this Draft Condition.

1 Can you speak to the practical impact of that as a  
2 result of your prior experience?

3 A Yes. As Mr. Auriemma mentioned earlier that at first  
4 glance of the condition it appears, it doesn't seem as  
5 complicated as it is in reality trying to implement such  
6 a program. What it involves is numerous field crews and  
7 environmental scientists, technicians in various places  
8 in advance of construction. They have to position  
9 themselves in advance of the various phases of  
10 construction. Set up their equipment. Be ready and as  
11 the pipeline construction process -- it's an assembly  
12 line process and there is constant movement up and down  
13 the right-of-way. So we are constantly having to  
14 anticipate where the crews are going to be. Get our  
15 people in place. Get our equipment set up. Collect our  
16 information and then quickly move to the next spot.  
17 What it does is create a lot of people working in close  
18 proximity to heavy equipment. They're trying to collect  
19 scientific data. There's side booms carrying pipe and  
20 backhoes operating. There is just really a lot of  
21 people being exposed in unsafe working environments.

22 In addition, as John mentioned, moving these crews  
23 from place to place along the right-of-way, they're  
24 going to have to travel down the right-of-way, get on

1 public roads and travel to the next spot. And certainly  
2 we obey the laws of the road, but there's just more  
3 traffic on the roads and in the construction zones as a  
4 result of the level of monitoring that would be  
5 required.

6 Q Mr. Treddle, are you familiar with other sites or  
7 permits that have been issued by DES that deal with this  
8 issue differently than as have been proposed here?

9 A I'm aware of several recent permits of pipeline projects  
10 that have been permitted that do not have the turbidity  
11 monitoring requirement.

12 Q I would refer you to Attachment 5 in your pre-filed  
13 testimony, Exhibit #67. Are those the permits that you  
14 are referring to?

15 A Yes.

16 Q So in your experience and based upon your education, is  
17 it your opinion that the increased monitoring or the  
18 monitoring that is being requested under condition #6  
19 will provide an additional environmental benefit that's  
20 warranted under the circumstances?

21 A The additional monitoring is not warranted.

22 Q Will there be a detrimental environmental impact if it's  
23 not imposed, but rather if the condition as drafted by  
24 Tennessee is adopted?

1 A There would be no additional environmental impact as a  
2 result of it. Tennessee will be applying approved best  
3 management practices and I feel that those are  
4 acceptable to ensure compliance with the water quality  
5 standards and minimize impacts.

6 Q Just so that we're clear, Tennessee has agreed to comply  
7 with the water quality standards that are set forth in  
8 that condition?

9 A Yes. That's correct. Absolutely.

10 Q Let me turn your attention briefly to the issue of  
11 sensitive species and the natural plant community. Have  
12 you been involved in analysis of that issue for this  
13 project?

14 A Yes, I have.

15 Q Can you describe generally how that process works and  
16 what you've done on behalf of Tennessee to deal with  
17 those issues?

18 A Yes. Basically the process for any of these projects is  
19 consultation with the appropriate species of concern  
20 agencies. In this case it's the New Hampshire Natural  
21 Heritage Inventory, the U.S. Fish and Wildlife Service,  
22 New Hampshire Fish and Game Department. Letters were  
23 sent to each of those agencies in 1999 during the early  
24 planning of the project. We received responses back.

1 Certain species, potential species were identified as  
2 occurring in the project area. Some surveys were  
3 performed prior to my involvement with the project.  
4 Some have been performed since my involvement with the  
5 project.

6 Q Let me direct your attention to Exhibit #53, which is a  
7 compilation of letters to which you refer. Would you  
8 just look through that and explain to the Committee what  
9 that is and if it was prepared on behalf of Tennessee?

10 A Yes. There are several letters here. There's a letter  
11 to the National Heritage Inventory dated February 11,  
12 1999 which requests information of known species of  
13 concern in the project area. There is also a letter to  
14 the -- actually a letter from the U.S. Fish & Wildlife  
15 Service. And letters from the NHI and from the U.S.  
16 Fish & Wildlife and another letter from NHI.

17 Q Has NEA or you on behalf of NEA responded to the  
18 governmental agencies that have been involved?

19 A Yes, we have.

20 Q What have you done in response to requests from  
21 governmental agencies?

22 A We've been in coordination with the New Hampshire Fish  
23 & Game regarding the state endangered floater mussel  
24 that was identified as potentially occurring in Beaver

1 Brook. It had been identified along the way during this  
2 consultation process. We've been in contact with John  
3 Cantor at Fish & Game as well as the U.S. Fish &  
4 Wildlife Service to identify their recommendations for  
5 surveys. They provided recommendations for survey  
6 methodologies as well as qualified experts in the area.  
7 We are a full service environmental firm but we don't  
8 profess to be experts in brook floater mussels so we  
9 contracted with Professor Barry Wickole (ph), St. Anselm  
10 College in Manchester. He's a recognized expert in  
11 applied ecology and mussels in particular and he has  
12 since performed surveys on each of the crossings.

13 Q What are the results of those surveys, if you know?

14 A There were no brook floaters or evidence of brook  
15 floaters identified in any of the crossings.

16 Q Are there other surveys that you are aware of that will  
17 need to be conducted regarding this project?

18 A There were, during the initial field surveys that were  
19 performed in 1999, there were several populations of  
20 rare plants that were identified and those were filed in  
21 the FERC filing as well as the EFSEC filing. There  
22 needs to be an additional survey to really pinpoint  
23 those locations just prior to construction so that we  
24 can implement any mitigation. Transplanting is the

1           likely form of mitigation to minimize impact to those  
2           populations.

3    Q    If those populations are found or substantiated what is  
4           Tennessee's willingness to deal with that situation?

5    A    Tennessee will coordinate with NHI, Fish & Game, the  
6           appropriate agencies to develop an acceptable mitigation  
7           plan and carry that implementation plan out to avoid  
8           impacts.       That's a pretty standard practice with  
9           Tennessee Gas.

10   Q    Thank you. I have no further questions.

11                   CHAIR:                                   Public Counsel?

12                   ATTORNEY WAGELING:                   Thank        you,        Mr.  
13                   Chairman.

14   **CROSS-EXAMINATION BY ATTORNEY WAGELING:**

15   Q    While we're on the issue of animals and plants, why  
16           don't I just go back to it and I'd like to just confirm  
17           what I understand to be some of the processes that you  
18           intend to implement and just so we can have it in the  
19           record. As I understand it from reviewing documents  
20           there has been -- you've been informed as to the natural  
21           wetland inventory that there are black birch and swamp  
22           white oak in -- I'm sorry, there is a swamp white oak  
23           flood plain -- I'm sorry. The wording of my question is  
24           bad and I'm trying to rephrase it as I -- There is black

1 birch and swamp white oak along the flood plain in and  
2 around the Beaver Brook area. And as I understand it  
3 you've been requested to avoid construction within that  
4 flood plain. Or at least there has been a  
5 recommendation to that effect. Are you aware of that?

6 A I'm aware of it. I'm not aware that there is a request  
7 to avoid construction. There was a request to consider  
8 that in our crossing plan to minimize impact to that.  
9 Following our best management practices and construction  
10 techniques as proposed that should minimize impact and  
11 by following the existing clear corridor.

12 Q Is there an intent, at this point as far as you're aware  
13 to have construction within the flood plain?

14 A Yes.

15 Q As I understand it there have been concerns raised that  
16 if there is construction within that area that it could  
17 seriously affect the hydrology or there could be the  
18 potential and if there is there's concern for the  
19 habitat along that area. What is going to be done by  
20 Tennessee to ensure that there isn't any serious affect  
21 to that area?

22 A I think the most important thing would be installing the  
23 pipe in the existing clear corridor and in the existing  
24 ditch line that has been disturbed previously and has

1           been successfully revegetated back to it's present  
2           condition.

3       Q     As I understand it also you've been informed that  
4           there's a few rare plant species to include the wild  
5           garlic and the bulbous bitter cress in and around the  
6           area of construction. Also the river birch along the  
7           construction paths. As I understand it from the review  
8           of the documents, you have been informed that there  
9           could be an impact to these species with any increased  
10          sedimentation and I'd like for you to inform the  
11          Committee as to what you will do to monitor that in and  
12          around the areas that these species have been located.

13       A     We intend to develop a specific mitigation program for  
14           each of these species in consultation with the Natural  
15           Heritage Inventory. What we've done on previous  
16           projects in New Hampshire, for example the PNGTS-  
17           Maritimes project there were some species of concern  
18           identified that we, in working with the Natural Heritage  
19           Inventory and John Cantor's group at Fish & Game, we  
20           developed a mitigation program which basically involved  
21           transplanting of the plants up to a qualified nursery  
22           during construction phase, complete our construction and  
23           then replace them back in the appropriate environment  
24           after construction. Those species that are -- portions

1 of the population that not on our construction right-of-  
2 way or directly adjacent we will flag and fence off  
3 those areas so that there's no potential for inadvertent  
4 impact as well as any potential for off right-of-way  
5 spoil or sedimentation that may occur.

6 Q In terms of the -- I think earlier you had talked about  
7 one of the mitigation possibilities would be  
8 transplanting and you've just given that as an example  
9 in the PNGTS-M&N project. Have you gone back to see  
10 whether or not there was success with that?

11 A Yes, we have.

12 Q What was it?

13 A Yes and no. There were certain species that did very,  
14 very well and there were certain species that didn't do  
15 as well. They tended to be the ones that were very site  
16 specific. They had very unusual soil and hydrological  
17 characteristics.

18 Q What would those have been, if you can?

19 A I don't know off the top of my head.

20 Q Well, I guess I'm wondering if they included in the list  
21 of the endangered or threatened species that we've just  
22 discussed, for instance the wild garlic or the bulbous  
23 bitter cress or the river birch.

24 A None of these were found on that project.

1 Q What, if anything, can be done then, in your estimation  
2 with the failures that you've just discussed, is there  
3 any other mitigating factors that you could have  
4 implemented that would have better ensured the success  
5 of what you did?

6 A That's a real good question in the whole restoration  
7 ecology field that's -- there's been a lot of research  
8 done on it. There are a number of studies that have been  
9 done and the conclusions are there are certain species  
10 that can handle this type of stress and there are  
11 certain species that are so site specific. One of the  
12 best ways to minimize impact is to reduce your impact  
13 area where you can. I'm personally not familiar with  
14 the real hydrologic and soil requirements of these  
15 particular species but as part of our work with the NHI  
16 we intend to come up with the best plan for these.

17 Q When you use the term 'best plan', I guess at the risk  
18 of what, I guess is my interest in learning for the  
19 people of New Hampshire, if it's a matter of either  
20 changing spoil sites or moving the pipeline to  
21 accommodate it, who's going to win out?

22 Q Well, there are a number of things that can be done,  
23 avoidance type measures that can be done without moving  
24 the pipeline. There's restriction of the work space.

1           There's putting spoil on the opposite side of the right-  
2           of-way as opposed to this side of the right-of-way.  
3           There's fencing, there's matting. One of the techniques  
4           we used on the PNGTS project was to mat over the  
5           populations and certainly they were crushed during  
6           construction but the root systems were retained and the  
7           soil was retained in place and those came back pretty  
8           well. So there are a number of techniques that we're  
9           certainly open to working on.

10        Q    As far as you're concerned if there's a disagreement  
11           between how any of this should be handled either from  
12           the New Hampshire Natural Heritage Inventory or Fish &  
13           Game or any other state agencies as compared to you as  
14           the consultant or Tennessee Gas, again, who's going to  
15           win out? Are you going to cooperate with the state  
16           agencies to their satisfaction?

17        A    That's our intent, yes.

18        Q    There are other animals that again, from my review of  
19           the documents, the Eastern box turtle. Are you familiar  
20           with the concerns of that and the banded sunfish, I  
21           guess were recorded in Beaver Brook. I understand you  
22           did the surveys for the floater mussel, were there any  
23           surveys done for either of those?

24        A    No. Those species are a little bit lower on the status

1 in terms of their status in the state and no surveys  
2 were required.

3 Q You mean in terms of them being endangered?

4 A Right. They're -- I forget the exact classification,  
5 but they're certainly species of concern but they don't  
6 have protection status.

7 Q So because they're not higher up on the list, it doesn't  
8 warrant a survey to ensure that they will remain safe  
9 through this project? Is that what you're telling us?

10 A Well, a formal survey has not been required by the  
11 agencies.

12 Q What's going to be done to coordinate ensuring their  
13 safety to possibly include relocating any of these  
14 animals found within the project to protect them?

15 MR. AURIEMMA: If I may?

16 ATTORNEY WAGELING: Sure. As long as we  
17 don't have any panel creep we'll be fine.

18 A (By Mr. Auriemma) What we've done to date by way of  
19 surveys are -- with respect to brook floater mussels and  
20 some of the plant species on the right-of-way, and some  
21 have been found. Now granted, every time we write  
22 agencies and request information in the project area  
23 with respect to species we can get a very extensive  
24 list. What we'll do is we'll consider that list, we'll

1 talk to the agency before. We'll ask what is really  
2 known of that list to occur in the area of most recent  
3 or historical records of something 50 years or older, we  
4 do give consideration but for practicality purposes, and  
5 we do coordinate with the agency with this. Now we have  
6 conducted some surveys to date. We have located some  
7 species. They've only been identified by way of  
8 location. We do intend to conduct further surveys for  
9 them. With respect to the box turtle and the banded  
10 sunfish, there was no recommendation for survey but it  
11 doesn't mean the case is closed. We're still  
12 coordinating with these agencies to implement the plans  
13 that were just being discussed by Mr. Treddle. I'm sure  
14 that will be brought up again and we'll just confirm  
15 that issue one more time, whether we do have to do the  
16 survey or not. If we don't, then we'll just abide by  
17 the recommendation of the agency. If we do, we'll work  
18 it into the plan and program that is still pending.

19 Q Will these agencies be coordinated with in terms of the  
20 relocation also?

21 A (By Mr. Treddle) Yes. If that's required. Another  
22 thing to point out is that we will have environmental  
23 inspectors on the project and one of their duties during  
24 the pre-construction phase, they'll be flagging wetland

1 boundaries. They'll be doing flagging stream buffers.  
2 They'll be basically walking along in advance of  
3 construction. Any incidental sightings of turtles or  
4 that kind of thing will be noted, they'll be physically  
5 moved from the area of construction. So we'll have  
6 people out there on the ground.

7 Just going back to the banded sunfish and Eastern  
8 box turtle. They are considered controlled species but  
9 not regulated.

10 Q When you say that there will be environmental  
11 inspectors, will they be qualified to provide the  
12 information that you've just indicated will be noted?  
13 If you don't have people qualified in that area, I don't  
14 know what the specific qualifications are going to be  
15 for the various environmental inspectors that you're  
16 going to have there on the scene pre-construction.

17 A Are environmental inspectors are trained environmental  
18 scientists, typically at least bachelor's level, if not  
19 master's level. In some instances if there is a  
20 particularly sensitive species there will be a  
21 requirement for someone that really is an expert in that  
22 species. To date, none of these have been identified as  
23 requiring that an expert be on site.

24 Q One of the other issues again, within the documents that

1 we've been provided included a sensitive natural  
2 community up on Hickory Hill in Pelham. Are you  
3 familiar with that location? As I understand it the  
4 Natural Heritage Inventory has noted 13 rare plant  
5 species and one sensitive natural community within that  
6 area. It's also my understanding that the Hill is  
7 composed of bedrock and till which is enriched in  
8 calcium and it sounds as if it might be a unique soil  
9 concentration as you have just previously discussed  
10 which provides a difficult situation for transplanting,  
11 potentially. As I understand it, again from the  
12 documents, these plants are concentrated on the ridge  
13 and upper sections of the Hill and possibly within the  
14 pipeline corridor. I guess I would like for the  
15 Committee to be informed what you are going to do to  
16 specifically monitor this area and ensure that this  
17 plant community isn't altered.

18 A The specific species were not -- it was identified as a  
19 potential sensitive habitat but specific species were  
20 not culled out. But in our standard of construction  
21 through that area in restoring the grade, restoring the  
22 physical characteristics, we anticipate we'd restore the  
23 habitat appropriately.

24 Q Well, as I understand it, it is specifically composed of

1 till enriched with calcium and because of the particular  
2 soil type there is an ability for these 13 rare plant  
3 species to grow in that location. So I'm not sure  
4 exactly what you're intending to do to restore it. If  
5 you could be more specific.

6 A Well, likely it's bedrock material. Limestone based  
7 bedrock material which will not be removed from the site  
8 or the material that's there will be restored.

9 Q Are you going to be segregating that soil to be able to  
10 replace it?

11 A It's currently not in the plan but if that is what is  
12 recommended by the agencies, that could be implemented.

13 A (By Mr. Auriemma) If I may add again, these plans are  
14 ongoing and coordination is ongoing with the agencies.  
15 These types of matters can be worked out with them and  
16 made feasible for both parties to agree to.

17 Q Thank you. There is also an area, as I understand it,  
18 in a marsh wetland south of Old Nashua Road in  
19 Londonderry. And again, as I understand it from the  
20 documents, it supports the uncommon small Biden which is  
21 a wildflower. From what I understand, again, has only  
22 had six reported populations in New Hampshire during the  
23 last 20 years and I'd like to know on behalf on the  
24 people of New Hampshire if you're going to provide

1 special attention to this concern and limit any impact  
2 to the area?

3 A (By Mr. Treddle) Yes. It's part of the overall rare  
4 plant mitigation program. That would be one of the  
5 species.

6 COMMISSIONER BROCKWAY: I'm sorry I didn't  
7 hear the end of your comment?

8 A That species would be addressed as part of the overall  
9 rare plant mitigation program that we developed in  
10 conjunction with NHI.

11 Q I think I'm off of plants and animals for a short while.  
12 I might bounce around a little bit but I'll let you off  
13 the hook for a minute. I'd like to talk about spill  
14 control plans and I'm not sure if this is the panel, or  
15 if there's anybody else? Okay. As I understand it in  
16 the documents you've provided to the Committee you state  
17 that spill prevention and control methods are based upon  
18 approved spill control plans that Tennessee has  
19 successfully used in the past. You also note that  
20 spills will be cleaned up immediately. What time frame  
21 can you provide to this Committee as the outermost limit  
22 that you're going to accept for spill cleanup?

23 A (By Mr. Auriemma) That's a very good question and very  
24 appropriate question. Section 7 of our Environmental

1 Construction Plan contains our spill prevention and  
2 control plan. Within that plan, as you noted, are the  
3 procedures that we follow, we've successfully  
4 implemented. Of course, the first act with respect to  
5 a spill is to contain the spill area and then notify the  
6 proper chain of command of who needs to be notified. We  
7 normally have these spills cleaned up immediately.  
8 Immediately meaning within an hour depending on the  
9 size. My experience, I've only had one spill out on a  
10 right-of-way, some diesel fuel got spilled while we were  
11 refueling and we cleaned it up within an hour.  
12 Basically took the soil, put it in drums, labeled them,  
13 sent them back for further detail and consideration to  
14 be taken care of.

15 Q I understand that's your experience in the past and it's  
16 taken it out but within the environment construction  
17 plan are you going to set an outer limit of time in  
18 which a spill has to be cleaned up depending upon it's  
19 size or location?

20 A I can honestly tell you to set a time frame for reaction  
21 is going to be immediate. Immediate would be minutes,  
22 depending on the location of it and who is at the site.  
23 Now for the outermost time frame it's going to be  
24 whatever it takes to clean that up and it's very

1           difficult to justify whether it's going to be five  
2           minutes or several hours depending on the type and the  
3           spill, where it's spilled, the material that is spilled.  
4           But we react in minutes.

5       Q     You also have within that environmental construction  
6           plan that the environmental inspector will assure that  
7           the contractor notify appropriate agencies if it's  
8           determined that a spill exceeds reportable quantity  
9           thresholds. Who decides what a reportable threshold is?

10      A     That's usually a measurement that's given to us by the  
11           state. Depending on which state we work in, for  
12           instance, one of the toughest and most strict is Rhode  
13           Island where they have a zero tolerance. If you  
14           basically have a drop that comes off your transmission  
15           of your car, you're supposed to report that. We have  
16           other states where up to ten gallons are acceptable  
17           without being reported.

18      Q     Within that same subject matter, in terms of who is  
19           notified, would it be fair to say that there are state  
20           and local agencies within that appropriate list of  
21           notification?

22      A     That's correct.

23      Q     Are there going to be records kept of the inspection and  
24           maintenance of the pipeline during the life of the

1 pipeline where the records are available to DES and the  
2 PUC?

3 A I'm sorry, records with respect to?

4 Q The inspection and maintenance of the pipeline?

5 A With respect to inspection and maintenance, it's more of  
6 an engineering realm. What we do from the environmental  
7 standpoint in relation to construction, we'll do  
8 inspection where mandated for two to three years  
9 afterwards to ensure everything revegetates properly.  
10 After that the inspections that are involved with the  
11 engineering inspection do consider some environmental  
12 factors. Any sort of sink hole that it may create down  
13 the road or any sort of erosive condition will be  
14 monitored and it will be within the reports.

15 Q Are those provided to either the PUC or DES that you  
16 know?

17 A (By Mr. Treddle) Can I add something? During the  
18 construction phase each environmental inspector will be  
19 providing a daily environmental inspection report and  
20 then there will be an overall project summary  
21 environmental report prepared on a weekly basis. That's  
22 been consistently provided to the state. Then over the  
23 long term we'll do quarterly reports that are required  
24 to be filed with the FERC and those are also typically

1 filed with the state for a period of three years.

2 Q I believe I heard this, but again, because it's on my  
3 list and just to make sure that the record is clear, did  
4 I hear correctly that no chemicals will be used to clean  
5 the pipes at either the construction site or in the pipe  
6 storage area?

7 A (By Mr. Auriemma) That's correct. You might be  
8 referring to the hydrostatic tests. We don't put any  
9 additives into the water we withdraw to conduct the  
10 hydrostatic tests.

11 Q What about in either of the piping storage area or  
12 before you bring it to the site or at the site or in the  
13 process, as it's put in the ground, before the  
14 hydrostatic testing takes place, are there any chemicals  
15 used to clean the pipes?

16 A Not that I'm aware of, no.

17 Q I thought that that's what you said yesterday. But just  
18 to make sure. Your ECP indicates, I think it's at 3.1  
19 that there's going to be at least one EI per construction  
20 spread? What's a construction spread and how big are  
21 they?

22 A (By Mr. Treddle) A construction spread, there may be  
23 times when we have a project as such, 16 miles long in  
24 New Hampshire. Nearly 20 overall. It may be considered

1 as one spread. IE where there'll be one contractor.  
2 There'll be a singular flow. It will be treated as one  
3 construction area. There may be times due to topography  
4 or difficulty where you break it out into spreads. As  
5 on PNGTS, it was broken into many spreads not only  
6 because of its length but because of terrain. The  
7 northern reaches up in northern New Hampshire had a  
8 greater differential in elevation so it was treated as  
9 its own spread. There may be times where we have a very  
10 densely populated area with residential construction  
11 that because of the different techniques gets treated as  
12 its own spread. This project, I believe, is going to be  
13 treated as one spread.

14 Q So there will be one environmental inspector for the  
15 whole of the 16 some odd miles?

16 A According to the FERC regulation you have to have at  
17 least one. We plan on having more than one because of  
18 the conditions that will arise from this proceeding as  
19 well as others. We know through experience that it's  
20 very difficult for one person to handle all these tasks  
21 so we will have multiple out there. The exact number  
22 hasn't been decided yet, but I can guarantee you there  
23 will be more than one.

24 Q You also indicate in that same area of your

1 environmental construction project that the EI must  
2 inspect activities daily to verify and document that the  
3 contractors are complying with the ECP. What  
4 documentation will be required and to whom is it going  
5 to be made available?

6 A (By Mr. Auriemma) The documentation for compliance,  
7 when I was an environmental inspector and Roger has also  
8 been in the past, you basically keep a field book with  
9 you. That field book basically becomes your bible so to  
10 speak. Everything that you witness. Everything that's  
11 conducted on a daily basis. Everything that you notice  
12 gets written into that book. Now we do have some  
13 inspection forms that we use that follow the FERC forms.  
14 We have forms for water body crossings, wetland  
15 crossings, agricultural areas, residential areas. These  
16 will also be used. What we do is -- those are basically  
17 in-house documents. What we do is take that  
18 information, tailor it and as Roger stated, FERC is  
19 going to require most likely a week or bi-weekly  
20 monitoring report be filed with them. I know -- I  
21 believe we worked that out in a similar manner on the  
22 PNGTS project. Your environmental inspector will also  
23 be out there with his own data. If required, we'll  
24 probably supply this information to the agency and the

1           reason why we whittle it down is just to get to the  
2           focus of what has been noticed throughout the period  
3           because it is many layers of information.

4    Q    Will you agree to provide that to the state agencies?

5    A    Sure.

6    Q    Thank you.   How long will unusable timber, stumps or  
7           rocks be left at work sites that are to be disposed of  
8           by Tennessee?

9    A    We'd like to have that sort of material, with the  
10           exception of usable timber, we'd like to have that sort  
11           of material cleaned up by the end of the job.  It's been  
12           my experience in the past, the usable timber, the  
13           landowner is always very interested in it, of course  
14           particularly in this region with the firewood that's  
15           necessary in the winter time.  We'll either just windrow  
16           it to the side of the work area with an agreement with  
17           the landowner that they'll come get it.  Most of the  
18           times I used to go back and do the revegetation  
19           monitoring two to three to four years after and I'd  
20           still see the same set of logs sitting there.  So it's  
21           more of a right-of-way issue in the easement  
22           negotiations.  We have worked out in the past also that  
23           either the landowner can come get it or we can deliver  
24           it to their property.  Things like that.  Just to keep

1           it out of the way of construction. There are times when  
2           we are constricted on space. It becomes an issue. But  
3           the intent is to have that cleaned up with the exception  
4           of the usable timber from the job site.

5       Q     From what I'm gathering, you try to do it by the end of  
6           the project, that's just what you just stated. Maybe  
7           I'm not so concerned with the usable timber because I  
8           assume exactly what you've just indicated that you have  
9           agreements. The unusable timber, the stumps and the  
10          rocks, what's the outermost limit that you're intending  
11          to have that stuff remain at the construction site?

12       A     Up until November 1<sup>st</sup> of the point of the permit with our  
13          cleanup. That is when we would like to have it removed.  
14          If, for some unforeseen reason, some part of it has to  
15          remain, we usually come back right in the next season  
16          and take care of it.

17       Q     In your environmental construction plan 5.5 you discuss  
18          residential area construction sites. You indicate I  
19          noted, that lawns were going to be restored per  
20          landowner agreements and that ornamental shrubs are  
21          going to be replaced when possible and I wanted you to  
22          tell the Committee under what circumstance will you not  
23          be able to replace ornamental shrubs?

24       A     That's a very good question. The only time we are not

1           able to replace an ornamental shrub is directly over the  
2           pipeline. We have guidelines not only from FERC but  
3           within the company policy. We usually have a ten foot  
4           strip centered over the pipeline itself that we maintain  
5           on a yearly basis. We're allowed to maintain on a  
6           yearly basis. From that ten foot strip, you go out  
7           another ten feet, so in essence, a 30 foot corridor. We  
8           do not prefer to have ornamental shrubs in there that  
9           could create any potential issue. What we normally  
10          allow is anything that would grow upwards to 15 feet  
11          only, directly over the pipeline but most of the time  
12          it's just a cleared corridor.

13        Q     What is the outermost limit of the time line that you're  
14              going to permit for replacement of sidewalks, roads and  
15              driveways?

16        A     We want to do that immediately. Again, that is a  
17              certain concern of ours also. Access to your homes,  
18              sidewalks, roadways, by the end of the project the  
19              construction season of 2001.

20        Q     So again, November 1?

21        A     Correct.

22        Q     I have another animal question. As I understand it you  
23              all have stated that all impacts to migratory bird  
24              habitat will be temporary and I'm wondering upon what

1 data you are relying on to make that statement.

2 A (By Mr. Treddle) Just the nature of pipeline  
3 construction in general, it's a temporary impact and we  
4 are maintaining a clear -- basically working through a  
5 clear -- already cleared corridor. We're not expanding  
6 our right-of-way such that we're going to be creating a  
7 loss of additional migratory bird habitat.

8 Q I apologize if this has been answered in previous  
9 testimony. I don't recall it so with that in mind -- In  
10 terms of the hydrostatic testing and the intake and  
11 discharge locations, have you determined whether or not  
12 there are any fisheries located in or near those  
13 locations?

14 A (By Mr. Auriemma) From our current investigations we  
15 have not finalized that determination. We plan on doing  
16 it prior to construction. Again, as part of the  
17 mitigation program, even with respect to some of the  
18 endangered species discussed, we'll negotiate with the  
19 agencies and work it out then but it hasn't been  
20 determined completely to date.

21 Q When are you going to determine what the intake and  
22 discharge locations are?

23 A The locations have been discharged. Whether there is a  
24 fishery within the area has not been finalized.

1 Q Would it be fair to say -- I'm sorry?

2 A The locations have been determined, excuse me.

3 Q They have been determined. Are you going to do any  
4 surveying of those locations within the time frame prior  
5 to the start of construction or are you waiting until  
6 construction starts? At least what is your intent at  
7 this time?

8 A (By Mr. Treddle) What we do know about the stream, the  
9 hydrostatic test water source is that it's designated as  
10 a cold water fishery. We do not have any records of any  
11 endangered species or other significant fisheries in  
12 that stream. It's typically not the standard practice  
13 to do a survey. The withdrawal of hydrostatic test  
14 water is a relatively low impact sort of thing. There's  
15 the intake pipe is screens so that you don't entrain any  
16 fish or other organisms and then the discharge is either  
17 back into the water body through a diffusing structure  
18 or on land near the water body through a diffusing  
19 structure. So in terms of the impact, it hasn't been  
20 shown to be a problem.

21 Q As I recall, that was a condition, potentially a draft  
22 permit condition that was noted by DES that they wanted  
23 you to provide the exact location on a USGS map of the  
24 withdrawal points and then become aware of the

1           characterization of fisheries in and around those areas.  
2           Am I correct in that? Okay. Are you going to comply  
3           with that?

4       A     (By Mr. Auriemma) Yes. We will. We prefer to do it  
5           prior to construction. We probably will do it prior to  
6           construction. Again, as Roger said it's not a normal  
7           procedure but we didn't see any issue with respect to  
8           that condition.

9                           ATTORNEY M. IACOPINO: Perhaps later on you  
10           can just tell the Committee where those areas are that  
11           you're going to do the discharging of this water.

12       A     We have a preferred and an alternate area of withdrawal  
13           and it's the Beaver Brook crossing at milepost, I  
14           believe 4.79. And the alternative location is a second  
15           crossing of Beaver Brook further north from there.

16       Q     Again, I have to apologize. I had to step out of the  
17           room for a minute and consult on another issue, but in  
18           terms of the restoration along the right-of-way, if it  
19           appears satisfactory in the first year, or even the  
20           second year and then in the third year everything has  
21           now died. Not everything, but a certain proportion. Or  
22           there's been an influx of undesirable plant life in the  
23           second growing or third growing season, what, if  
24           anything, is Tennessee going to do to respond to those

1 concerns?

2 A Again, we're mandated for two to three years after  
3 construction to make sure that everything revegetates  
4 properly.

5 Q Is that two or three?

6 A Well, it depends on the agency. I believe FERC says up  
7 to three the Army Corp may say even more and it depends  
8 on the issue also. FERC with respect to agricultural  
9 areas which we have very few, on this project require  
10 two years of monitoring crop productivity. Wetland  
11 areas are normally seen as three years. What we end up  
12 doing is just sweeping the entire right-of-way anyway.  
13 If during that period it seemed to revegetate  
14 successfully what we normally do is just end the program  
15 with respect to that and turn it over to the operations  
16 group. We do get calls past that period of time  
17 occasionally by a landowner or even someone monitoring  
18 the pipeline may bring up an issue and we remediate the  
19 condition at that time. It's very difficult to say what  
20 we'd do, it just depends on what you happen upon.

21 Q There's a term of art that's used on the documentation,  
22 "An inadvertent disturbance of the right-of-way." You  
23 have indicated that if there is such a thing that an  
24 employee of Tennessee Gas is notified immediately and

1           then they decide what to do. And then it goes on to  
2           indicate that landowners and agencies are to be notified  
3           of the disturbance. But you don't indicate any time  
4           frame in which any of this notification is going to take  
5           place. I'd like for you to explain to the Committee  
6           those time frames for landowners. The time frames for  
7           the different agencies. Do you have any specific  
8           requirement of time frames for notification for those  
9           different people?

10       A    If I may, I think you might mean "inadvertent  
11           disturbance off the right-of-way?"

12       Q    I could have had a typo there.

13       A    It's okay because off and of are very, very similar.  
14           "Inadvertent disturbance off the right-of-way", needless  
15           to say it happens, you have to factor in human error of  
16           these projects. It's normally minimal. Actually,  
17           someone parking their vehicle off the right-of-way is  
18           considered an "inadvertent disturbance off the right-of-  
19           way." Depending on the occurrence and what has  
20           happened, the landowners is usually notified that day.  
21           We usually take a day to assess what has occurred, what  
22           has to be done, how to mitigate it, get our facts  
23           together and call the agencies or notify the agencies  
24           that same day or by the next morning. It's usually no

1 more than a 48 hour period that everyone is notified.

2 Q I don't mean to be a lawyer here but when you say  
3 'usually' I have concern. So is that a definite? You  
4 are going to notify landowners within the same 24 hour  
5 periods and agencies?

6 A Yes. It may spill into that next morning, depending on  
7 what has occurred and for us to gather our facts with  
8 the agency. But the landowner that same day is  
9 definitely notified because they are the ones that --  
10 they may even notice it so we have to discuss it with  
11 them. Your environmental inspector will be out there.  
12 Probably he will be notified the same day, because you  
13 do have the privilege of having the inspector out there.

14 Q Again, I think that this has been covered but if it  
15 hasn't I'm glad I'm bringing it up but I apologize if  
16 I'm being redundant. I noted that there had been an  
17 agreement that you will be clearly identifying the 12  
18 inch pipeline in, at least in the dry areas, and I  
19 wanted to ensure that we're talking about a staking of,  
20 or somehow positively identifying the 12 inch pipeline  
21 through the whole duration of the pipeline.

22 A Yes.

23 Q When water crossings are going to be conducted in the  
24 wet will you all agree to stake, and it's for a variety

1 of reasons but, stake the pipeline, the 12 inch  
2 pipeline? As I understand it, in consultation with  
3 Haley & Aldrich, it was recommended that approximately  
4 five feet off from the 12 inch pipeline they had  
5 recommended staking in the wet so that the stakes can  
6 provide information, for instance, you can tell if the  
7 soil wall has been compromised and so forth during your  
8 trenching and whatever activities are going on in and  
9 around the 12 inch pipeline while you're in the wet.  
10 Will you all agree to do that?

11 A I will ask Mark Hamarich to answer that. The only thing  
12 I can add is that in the past I'm seen a stake center  
13 line through the water body and I know they're asking  
14 for the five foot difference and that's something for  
15 Mark to answer.

16 Q And not just the center line as I understand it.

17 A Correct.

18 MR. HAMARICH: We have agreed to that  
19 and we'll also mark the center line in five feet over  
20 from that in the existing trench line.

21 Q Okay and we're also talking about not just at either end  
22 of the wetland crossing but throughout the wetland  
23 crossing at appropriate increments?

24 MR. HAMARICH: Absolutely. And the

1           only thing I want to add is if it's in the steam  
2           crossing, it might be either bank as the approach. I  
3           don't know if we're going to do the -- if you're asking  
4           for a buoy or something in the middle we might be able  
5           to do something like that also like they do when they're  
6           doing a water crossing. In other words, if it's a  
7           stream 35 feet across and it has stakes on either side  
8           I don't know with five feet across what the options  
9           were.

10        Q    As I understand it the buoy system isn't necessarily a  
11           concern it's more that we want to be able to determine  
12           if there's any compromise during the trenching of the  
13           swale wall and also so that you absolutely are aware of  
14           where the 12 inch pipeline is. If you're stringing  
15           buoys it's not going to --

16                       MR. HAMARICH:                        No. What I'm saying  
17           is if you're in water it's very deep in the extremes  
18           however we mark it. We're going to have to use some  
19           system to mark it in the streams. We can do that.

20        Q    And I wasn't aware that any of the water bodies were  
21           that deep in this project, are they?

22                       MR. HAMARICH:                        We can mark them five  
23           feet off. We'll work up a system, whether it's buoys or  
24           stakes.

1 Q Thank you. I just want the record to be clear that I  
2 think the parting comment was buoys or stakes and buoys  
3 aren't what would be acceptable and we can have that  
4 testimony presented but --

5 MR. HAMARICH: Stakes.

6 Q Thank you. In the documentation provided to this  
7 Committee you indicated that temporary work space beyond  
8 approved construction right-of-ways will be located at  
9 least 50 feet from the boundary of all wetlands and  
10 service water unless appropriate approval is given. You  
11 have indicated that that was alright with all of you as  
12 long as possible and then you went on to qualify that by  
13 including a statement where efficient construction will  
14 require. Otherwise you will ask for a variance. And I  
15 guess I would like you to explain to the Committee of an  
16 example of when the efficiency of this construction  
17 project will get in the way of the concerns of the  
18 people of New Hampshire have for their wetlands and  
19 water bodies.

20 A (By Mr. Treddle) I think it's not just efficiency, I  
21 think it's practicality. There may be situations where  
22 there may be a wetland right adjacent to a roadway and  
23 we typically need additional work space to conduct the  
24 road crossing. In that particular case it's not

1 possible to locate that extra work space 50 feet away  
2 from the wetland because it needs to be adjacent to the  
3 roadway in order to complete the construction. That's  
4 normally the reason why we would request additional work  
5 space closer than that 50 feet. It's a physical  
6 necessity of doing the construction.

7 Q If I could have just one more minute. I'd like to ask  
8 a few questions about the wetlands crossings. Again,  
9 for the record I think, in part, I'd like to ask some of  
10 these questions. The Dunlop wetland in Pelham is  
11 designated as a prime wetland. What efforts to minimize  
12 impacts of that wetland have you done and what  
13 coordination has occurred with the Pelham Conservation  
14 Commission?

15 A (By Mr. Auriemma) The coordination with the Pelham  
16 Conservation Commission is that we did hold a workshop  
17 and we did have written correspondence which I believe  
18 is included as part of the record. We're going to be  
19 using that wetland for what we call a push/pull  
20 construction technique. It's noted as a wetland  
21 construction method III and I know the numeric and the  
22 Roman Numeral, we try to differentiate between the water  
23 body and the wetland. What that entails is to minimize  
24 impact. It minimizes the amount of equipment within the

1 wetland. Due to the hydrology of the wetland we  
2 normally have one piece of equipment walk through that  
3 wetland with a set of timber mats for support. It will  
4 excavate the trench, the pipe will be welded together on  
5 one of the ends of the wetland and it's usually pushed  
6 and pulled through the trench and only that one piece of  
7 equipment comes back through the wetland to backfill all  
8 of that. What that does is minimize the amount of  
9 equipment. It minimizes the amount of impact. It  
10 minimizes the amount of disturbed area. But it does  
11 depend on the hydrology of the wetland. If for some  
12 reason we get a summer of 1999 and it dries up we will  
13 have to coordinate again with the agencies and try to  
14 discuss an alternate method but that is our intent at  
15 the present time.

16 Q With that same thought in mind, at least in terms of the  
17 documentation that you've provided, you've indicated  
18 that it's underlain with unstable organic soils. Have  
19 you done any test borings to determine what data you  
20 were relying on to make that assertion? As I understand  
21 it that was in part the basis of your decision for the  
22 push/pull?

23 A We have not done any test drilling or borings out in the  
24 field and there is a differentiation between drilling

1 and boring or coring. What we have relied on is  
2 existing literature and basically field walk throughs.  
3 You can tell just sometimes by walking through a wetland  
4 that it's an unstable type soil. Plus it's just past  
5 experience of dealing with wetlands as such in this  
6 region and within the State of New Hampshire.

7 Q I have basically the same question on that. The wet  
8 crossings that you've proposed for Beaver Brook and  
9 Little Coos Creek, you have indicated that, at least  
10 insofar as, I think, the Beaver Brook crossing, you  
11 substantiated in part by relying upon the fact that  
12 there's a sandy soil base and I have the same question  
13 as it relates to that. Did you do any testing that  
14 provides you with that information?

15 A To date we have not. That was a visual inspection of a  
16 field walk through.

17 Q Do you have information that would tell you what the  
18 specific level of water flow would be at the time that  
19 you're doing the crossing?

20 A If I may. One minute. I'm going to allow Eric  
21 Kleinhenz to provide an answer.

22 MR. KLEINHENZ: During some of our  
23 engineering survey walk throughs we had determined  
24 depths at that time and also widths of the Beaver Brook

1 crossing and obviously, that would be dependent upon the  
2 flow conditions at that time.

3 Q Is it a fair assumption for this Committee to believe  
4 that your crossing methods may change dependent upon  
5 what you find at the time you begin that part of the  
6 project?

7 MR. KLEINHENZ: That is correct. And  
8 also, as John alluded to, the wetlands crossing as well.

9 Q If deemed appropriate, and again, I'm not meaning to put  
10 this in to suggest that I think it is appropriate but if  
11 appropriate at the time that you're making that decision  
12 will you include directional drilling as an option if  
13 it's deemed appropriate at the time?

14 MR. KLEINHENZ: In terms of all  
15 locations?

16 Q Sure.

17 MR. KLEINHENZ: We did some field  
18 observations regarding the feasibility of directional  
19 drilling and based on impacts and other factors we did  
20 not consider those viable options.

21 Q You don't know any of the substrate conditions of any of  
22 those crossings? I mean that's not part of your --

23 MR. KLEINHENZ: Not specifically.  
24 There are no specific soil borings done.

1 Q Has it more to do with the right-of-way distances that  
2 are available?

3 MR. KLEINHENZ: Right. Obviously  
4 that's the impact that we're discussing.

5 Q Thank you. I just have a couple more questions. Again  
6 I think it's the lawyer in me coming on when I reviewed  
7 some of these documents. In the Draft Conditions of  
8 DES, it stated that a condition would include that  
9 Tennessee would conduct crossings at times approved by  
10 New Hampshire Fish & Game. Your response was saying  
11 that you agreed to it as it relates solely to the  
12 installation of the 20 inch pipe. Was there some  
13 distinction you were trying to make there?

14 A (By Mr. Auremma) Yes, there is. Actually, when I  
15 wrote that I knew it would raise questions from someone  
16 so it's very good that you found it. What we're trying  
17 to do is make everyone understand that compared to a  
18 project that was recently built, PNGTS-M&N that this is  
19 a two step process. We have the removal of the eight  
20 inch pipeline but we also have the installation of the  
21 20 inch pipeline. Certain conditions with respect to  
22 the draft set that was released on August 29<sup>th</sup> have  
23 timing consideration or certain aspects of construction  
24 that if you consider it for the eight inch pipeline it

1 somewhat becomes double work because you have a two step  
2 process. To remove the eight inch pipeline, most of the  
3 time, we try to snake it out from underneath the water  
4 bodies because we don't want to get in it until we do  
5 the actual installations. But in order to remove that  
6 pipeline we may do it outside of that period that's  
7 recognized for the installation of the 20. Now our  
8 intent may be to snake it out from underneath the water  
9 bed and not have to get in. But for some unforeseen  
10 reason, as it's snaking out, you don't know. You may  
11 end up having to get into that water body. There may be  
12 times that occurs. What we're going to try to do is  
13 analyze those types of areas and we may do the crossing  
14 simultaneously with the removal.

15 Q So I guess my interpretation of what you're stating to  
16 this Committee is that you, while you'll comply with the  
17 concerns of the New Hampshire Fish & Game as it relates  
18 to the installation of the 20 inch pipe, you're not  
19 going to do so with the removal of the eight inch?

20 A No. We intend to comply throughout the entire project.  
21 The intent is to snake that pipe out from underneath the  
22 water body. Like I said we have to discuss it with the  
23 engineers. We have to do further field visits. We have  
24 to determine the timing of removing that eight inch

1 pipeline with the installation of the 20 inch pipeline  
2 with respect to the scenario that you're noting. We'll  
3 most likely do it simultaneously. But the reason why I  
4 put that wording within some of our responses is to make  
5 everyone understand that it is a two step process.

6 Q Understanding that it's a two step process, it is a two  
7 step process for that same crossing.

8 A Correct.

9 Q And I'm sure you can understand that the people of New  
10 Hampshire have the same concerns as it relates to the  
11 impact that it might have on that crossing relative to  
12 the removal of the eight inch. So I guess I'm wondering  
13 why our concerns will be addressed by Tennessee as it  
14 relates to the installation of the 20 but potentially  
15 not as it relates to the removal of the eight?

16 A It's a different construction process to remove than to  
17 install. Most likely it will not impact or violate the  
18 standards. But you always have to build in these  
19 factors that may occur. And until we do further  
20 research -- it may negate that wording that I put in.  
21 But at the current time with what we know about the  
22 project all we're trying to do is have everyone  
23 understand that the process involved with removal versus  
24 the installation, it may change once we get some further

1 investigation conducted.

2 Q I noted some other distinctions in the answers. One of  
3 the other ones was the completion time lines for stream  
4 crossings. In the DES report it qualified that to  
5 include trenching, lowering, backfilling and  
6 restoration. You responded by stating that you agree as  
7 it applies to both removal of the eight inch and  
8 installation of the 20. But I wanted to make sure that  
9 it included, as noted by the DES condition, the  
10 trenching, lowering and backfilling and restoration.

11 A I agree.

12 Q Thank you. That went quicker when we agreed, didn't it?  
13 You also qualify a response to DES condition about  
14 stream bank contours and stabilization. You indicated  
15 that you agree as it applies solely to the 20 inch  
16 installation and I assume it goes back to the same  
17 discussion we just had about the eight inch.

18 A Yes.

19 Q I can indicate to you that I have concern for your  
20 response as Counsel for the Public.

21 A I'd like to qualify that. With respect to the removal  
22 of the eight inch, there's going to be some disturbance.  
23 Most likely it will not occur within the stream bed.  
24 And again, in those scenarios where it will, we will

1 probably do that simultaneous, removal, installation.

2 Q When you do it together there's not so much problem?

3 A Correct. But there are times too, particularly when you  
4 refer to final stream bank stabilization. Here's what  
5 we're trying to avoid. I guess my fingers might have  
6 gotten tired and I couldn't type all this into the  
7 document.

8 Q Sort of like my off and my of.

9 A When you say final stream bank restoration what we  
10 envision that as is final, i.e. it's battened down, we  
11 put our mulch down. We may or may not put seeding,  
12 depending on the stream bank. To do that, for the  
13 removal of the eight inch and then come back in and tear  
14 it up for the installation of the 20 inch, we're just  
15 looking at it in that sort of process. And this may be  
16 the areas where we don't have that simultaneous. There  
17 are going to be areas where we'll be very capable to  
18 snake the eight inch out from underneath the stream bed.  
19 Now for instance, let's just say as part of the stream  
20 bank there may be some slight disturbance. Very slight.  
21 Because most of the time what we do to remove that is  
22 we'll cut the pipe a certain distance back. As we're  
23 snaking it out let's just say that it creates minor  
24 disturbance. We will temporarily restore that before

1 the installation of the 20 inch. But to go to a final  
2 and then have to tear up a final restoration, to us it  
3 just didn't make sense.

4 Q Do you agree that -- well, let me put it this way. Will  
5 you agree to work with DES to come up with a mutually  
6 agreed upon process for those types of specific concerns  
7 that you've outlined within your testimony?

8 A Yes and particularly with the environmental inspector in  
9 the field.

10 CHAIR: Could I just interject  
11 here a bit? One of the concerns that I think people are  
12 driving at is the possibility for delay in your project  
13 in which you say you have an end date hopefully, you've  
14 indicated in the application of November 1<sup>st</sup> but we've  
15 seen through past history that sometimes projects aren't  
16 finished on time and there could be heavy rains in the  
17 fall, typically fall season has heavy rains and you  
18 could have a situation in which the site restoration is  
19 not completed. So you would then potentially have the  
20 concern would be a situation in which you have opened up  
21 an area, haven't restored it and it goes all fall, all  
22 winter and into the spring before it's addressed and the  
23 potential harm, degradation that could occur during that  
24 time period. So just to elaborate for some of the

1 others who may not be familiar with this kind of an  
2 issue and we'll get to that later, but. Thank you.

3 Q I have one last question. In reviewing the Massachusetts  
4 recommendations to FERC on the same project, it  
5 recommended that Tennessee be required to provide an  
6 evaluation of environmental advantages and disadvantages  
7 of the removal or the abandonment of the eight inch  
8 pipe. Up to this point I know that there comments made  
9 within your proposal that there were situations where  
10 you might have to abandon the eight inch in place. Have  
11 you prepared that information, well, let me step back a  
12 minute. Were you asked to provide that information and  
13 if you were asked, have you done so? And if you have  
14 done so will you do that for New Hampshire also?

15 A I'm aware of the situation with respect to that issue.  
16 We are continuing to review that. Most of the areas  
17 where the abandonment in place would occur are going to  
18 be at the road crossings for the reasons that the  
19 engineering panel considered. To date I'm not sure if  
20 we're going to leave or abandon the pipe in place in any  
21 other area than the road crossings. I know this is an  
22 ongoing type of measure we're looking at. We have not  
23 supplied anything to the state yet because it is an  
24 ongoing issue. If we do so for them, we don't see it

1 being a problem to supply the same type of study to the  
2 Committee here.

3 Q As a follow up, would you agree to do so for New  
4 Hampshire notwithstanding, what you do for  
5 Massachusetts?

6 A Correct. Yes, I will.

7 Q Thank you. I have no other questions at this time. Oh,  
8 I do. I apologize. I'm sorry and it's solely relating  
9 to the turbidity studies that you've discussed. My  
10 question is actually rather simple and I'm sorry if my  
11 question is long but it's a reasonably simple question.  
12 If the turbidity monitoring that you've talked about,  
13 the results of that that you talked about that were  
14 conducted on the PNGTS-M&N project, if it was collected  
15 as I understand it, based upon turbidity occurring or  
16 resulting on a project when the project manager knew  
17 that there was going to be turbidity monitoring. Is  
18 that a fair basis upon which you now come to this  
19 Committee and say that it's redundant monitoring? I  
20 guess what I'm trying to get out is, do you have any  
21 empirical studies or just a basis of knowledge that you  
22 can tell this Committee that notwithstanding what  
23 happened with PNGTS-M&N that these studies are  
24 redundant? Because, as you can imagine, what I'm

1           wondering is if everybody on the project knew that these  
2           studies were going to be done and they did, then  
3           couldn't that have affected how they managed that  
4           project as it related to the turbidity?

5       A     (By Mr. Treddle) There is a very involved process in  
6           developing the study. We felt, I guess, going into the  
7           study that it was more than was really necessary the  
8           first time and then when we actually implemented it,  
9           that sort of confirmed what we had envisioned going into  
10          it that it was kind of overkill.

11                   ATTORNEY M. IACOPINO:     Along these lines.  
12           Was there anything built into the study to eliminate  
13           that sort of bias that people who were doing the study  
14           brought to it? Was there any sort of blind -- people  
15           doing evaluations blindly or any kind of control group  
16           or anything like that so that your results aren't  
17           subject to the bias that went into the study?

18       A     I'm not sure I understand the question. I don't think  
19           there was any bias introduced by the people that were --  
20           we were implementing basically the permit condition as  
21           it was written. And basically followed the procedures  
22           that we were required to follow and we just determined  
23           that that level of monitoring was excessive. There was  
24           a lot more data saying the same thing over and over, was

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collected.

Q It's my understanding though that -- and exactly that. As you continued with the study you were finding the results that you expected to find. That is, the same turbidity monitoring levels were changed as time went on just as you expected. That's pretty much my point though. Have there been other studies done where -- you were measuring turbidity based upon the actions of a contractor who knew turbidity studies were being done. Do you have anything that you can point us to that would tell us that that's what happens all the time even if people don't realize turbidity studies are being done. Maybe I'm wording it badly but

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A I understand what you're saying. I can't point to any examples where the contractor is sort of being monitored without them knowing it.

Q That would be a good example, thank you.

A But I think, the number of inspectors that are out there watching construction, the contractor was building the project the way they would have built it whether there was monitoring going on or not. That's my professional opinion. The monitoring did not affect how they constructed the crossing. It did not affect how they trenched. How we installed the flume pipes. That's -- you know, there's a way to do it and that's the way it was done. And the monitoring was just kind of documenting what went on during that normal process.

Q Sir, I would agree with you in a perfect world. Thank you. I don't have any other questions.

ATTORNEY V. IACOPINO: Mr. Chairman, may I just follow up a question or two on that?

**EXAMINATION BY ATTORNEY V. IACOPINO:**

Q That whole issue, in the prior pipeline case was a very controversial issue, was it not?

A Yes, it was.

Q And the division of the Department of Environmental

1 Services representatives were involved with that to the  
2 extent of constant monitoring, were they not?

3 A That's correct.

4 Q Did you at any point convince them that their standard  
5 was wrong and that they should -- or it was too tight?

6 A We were never able to convince them of that, no.

7 Q And without being facetious about this, during the  
8 course of that operation you were constantly telling  
9 them that this is unnecessary and they were constantly  
10 telling you that it was necessary?

11 A I don't think throughout construction. We accepted that  
12 that was the condition and we were going to comply with  
13 it. There wasn't any continual dialogue about we  
14 shouldn't be doing this. I think once we got to the  
15 point where it was going to be a condition, we  
16 implemented the condition, regardless of the results.

17 Q Well, I guess what's concerning me, I've never found the  
18 agency people to be unreasonable and if you're telling  
19 me that you were making these measurements and they were  
20 continuously verifying what you had told them, I can't  
21 believe that they wouldn't have changed their standard  
22 or their practice, to be honest. I find that a little  
23 hard to take.

24 A The actual results from each stream crossing were not

1 being reported on an ongoing basis to the DES. So I  
2 guess they wouldn't have been able to see the empirical  
3 data as it was being generated.

4 Q Well, they've seen it since though, haven't they?

5 A It has been submitted in a report, yes.

6 A (By Mr. Auriemma) If I may add, that's the reason for  
7 the request now within the draft permit conditions.  
8 Going into the project in which it was implemented there  
9 were numerous similar studies which reflect the same  
10 results done by the Gas Research Institute, done by  
11 Southern Gas Association of American, done by the  
12 Interstate Natural Gas Association of American. We  
13 brought all of that to the table to reflect what it is  
14 that should be expected during these crossings. And the  
15 measurements as taken in the field did reflect those  
16 same results.

17 CHAIR: Town of Londonderry is  
18 not here, correct? So Londonderry Neighborhood  
19 Coalition?

20 **CROSS-EXAMINATION BY ATTORNEY EDWARDS:**

21 Q I just have one quick question for the environmental  
22 panel on this issue of tree removal and what I'm  
23 wondering is if the removal of large numbers of trees in  
24 the right-of-way has the potential to impact adjoining

1 landowners' property or even adjoining wetlands, in  
2 terms of water retention. What I'm wondering is if  
3 removal of a lot of trees and their root systems has the  
4 potential to, for example, impact someone's back yard in  
5 terms of being wetter than it normally is during the wet  
6 season?

7 A (By Mr. Treddle) That has been a documented occurrence.  
8 When you remove trees it reduces the evaporal  
9 transpiration and you can have a little bit wetter  
10 soils. I haven't observed it as being a problem in a  
11 pipeline project. I know it's a problem in clear  
12 cutting, a lot of times you can change the hydrology of  
13 an area, of a large area. But the amount of clearing  
14 we're talking about, it doesn't, in my opinion,, would  
15 not create a change in the hydrology of the soil.

16 A (By Mr. Auriemma) If I might also add, the removal of  
17 trees outside the permanent easement area is temporary.  
18 We're required to revegetate those areas and starting  
19 after actually with restoration of construction and  
20 monitoring, revegetation. With this project it's  
21 already existing corridor. We're not expecting those  
22 type of impacts from the tree removal.

23 Q Right. In the event that it does impact someone's  
24 property I would just like to know what the landowner is

1           supposed to do. I don't know that it's been addressed  
2           in the application but if they perceive their property  
3           to have been wetter as a result of some surrounding tree  
4           removal. Do you have any thoughts on that?

5       A     What we do, as a matter of fact, with respect to the  
6           FERC environmental assessment, there is going to be  
7           mandated by the FERC a landowner dispute resolution  
8           procedure with respect to environmental concerns during  
9           construction and to some period after construction. Now  
10          I know the period after has not been determined. Most  
11          likely FERC will include that within our monitoring  
12          period and being that it's a draft environmental  
13          assessment, we haven't begun to work on it but we are  
14          expecting that that procedure will be in place in  
15          addition to what our property rights services group  
16          already has with respect to company policy and function  
17          with landowner concern.

18       Q     I'm wondering if this has ever been brought to the  
19           attention of landowners before the tree removal so that  
20           they can essentially monitor their own property to see  
21           if they think it's been affected by this.

22       A     If I may ask one of our right-of-way agents to assist me  
23           with this. Since it's not a concern with respect to  
24           construction from the normal sense, it's usually not

1 discussed with the landowners that a removal of a tree  
2 may create increased hydrologic conditions on the  
3 property. The right-of-way agents, Rick if you'd like  
4 to get up and assist with the answer. What is actually  
5 discussed during negotiations?

6 Q He's not been sworn in.

7 RICK LOPEZ

8 having been duly sworn by Attorney V. Iacopino  
9 was examined and testified as follows:

10 **CROSS-EXAMINATION BY ATTORNEY EDWARDS:**

11 A My name is Rick Lopez and I'm a coordinator for this  
12 project and generally landowner concerns on our right-  
13 of-way, we have another gentleman named Mr. Hubble, we  
14 meet with these landowners in their homes and discuss  
15 any problems or concerns that they may have. They bring  
16 them to our attention. If it's outside of our  
17 responsibility then we discuss it with the proper  
18 individuals. If it's an environmental issue then we  
19 discuss that with John. Construction? With one of the  
20 engineers. But we're responsible for all of the  
21 landowner contacts.

22 Q So during the initial landowner consultation would  
23 something such as potential for the land to become  
24 wetter from season to season, would that be brought to

1 their attention?

2 A If someone asked about it. We're not out there to  
3 observe it.

4 Q I understand.

5 A Okay.

6 Q I have one more question. When do you meet with the  
7 landowners?

8 A We're in the process of doing that right now. We have  
9 met with probably close to 90 percent of the landowners  
10 on either line.

11 Q Okay. Thank you Mr. Lopez.

12 CHAIR: Questions from the  
13 Committee?

14 ATTORNEY ROCHWARG: I have a few. I'm  
15 sorry.

16 **CROSS-EXAMINATION BY ATTORNEY ROCHWARG:**

17 Q I think it was Mr. Auriemma, you were, at the beginning  
18 of your testimony, it seems like some time ago, but see  
19 if I can pull it back and you can help me perhaps. You  
20 had testified to something that you referred to as zero  
21 noncompliance. Could you be more specific and explain  
22 to the Committee what you meant by that?

23 A (By Mr. Auriemma) What our company policy and train of  
24 thought entails is no environmental infractions. That

1 means no violations. Abide by all the permits. Abide  
2 by the conditions. Abide by what's been discussed and  
3 supplied and filed with the agencies. That is our goal.  
4 That is our mission statement.

5 Q What happens if that is not attained?

6 A If that is not attained, again, it depends on the  
7 infraction, it is remediated. It is taken into  
8 consideration. It is taken back to the Houston office.  
9 It's a lesson's learned. It gets involved with further  
10 training of staff. It does get noted by our senior  
11 management. And again, depending on what occurs, there  
12 are several different things that can happen but the  
13 largest intent is to bring it back and create a lessons  
14 learned scenario so it does not occur again.

15 Q So other than preventing repeat occurrences will  
16 Tennessee take additional mitigative measures to rectify  
17 any damage that may have occurred as consequence of the  
18 noncompliance?

19 A Yes, we will.

20 Q You had indicated during your testimony, I believe it  
21 was regarding trench water disposal that Tennessee had  
22 concerns about disrupting the flow of construction. If  
23 you could, does that disruption to the flow of  
24 construction include additional costs to Tennessee?

1 Does it also include concerns for delay of completion?  
2 I would imagine. And does it actually include in that  
3 analysis additional environmental impacts?

4 A Yes. All of the above.

5 Q How would it add to potential environmental impacts, if  
6 you could be more specific? I think the other two are  
7 inherently obvious.

8 A Let's use for example the sump method where to dispose  
9 of the trench water we can excavate a small hole and  
10 depending on the amount you're going to dispose of, will  
11 dictate the size of the hole. You now have an area  
12 where that spoil has to be placed. We may not have  
13 considered that sort of method in that location. We may  
14 now have to ask not only the agencies within New  
15 Hampshire but the FERC for increased land disturbance  
16 area. That could in turn create clearing of trees just  
17 to place that spoil properly so that it's out of the way  
18 of construction. That's just one example.

19 Q Something that you said earlier in your testimony and  
20 perhaps to adopt a comment of the Attorney General  
21 present, Attorney Wageling. Something to me is  
22 intellectually inconsistent with what you said and maybe  
23 it's the lawyer in me as Attorney Wageling has said, you  
24 said something about you did not want to remove heavily

1 sedimented water in full because one, it couldn't be  
2 removed. I think you said it can't be removed in full.  
3 And then you said, it's very difficult. Which is it? Is  
4 it that it can't be removed or is that it's difficult  
5 and becomes more costly?

6 A Using the current technology it cannot be removed in  
7 full. Now the intent is to minimize. The intent of our  
8 approach to these projects is to minimize the  
9 environmental impact. With using such methods it  
10 becomes extremely difficult. You just cannot remove all  
11 the sediment from that discharged water. Even setting  
12 up numerous filtration devices. It's just the intent to  
13 minimize.

14 Q So it's the current technology that doesn't allow full  
15 removal?

16 A That's correct.

17 Q Is Tennessee Gas currently undergoing any research and  
18 development to increase the removal of sedimentation  
19 procedures?

20 A We do, as a matter of fact, I'm actually involved with  
21 such measures. We work within the Gas Research  
22 Institute. We work within INGA and SGA which I mentioned  
23 previously. I'm constantly attending seminars to  
24 discuss such measures, not only with respect to trench

1 water but just other methods of construction for  
2 pipeline.

3 Q Along that same testimony, I believe, regarding trench  
4 water disposal as well, you mentioned in your direct  
5 testimony, if I'm not mistaken that there were times  
6 when a filter bag is not necessary. Is that correct?

7 A Yes.

8 Q Can you describe to the Committee if you would when that  
9 might occur and what are the criteria that you use in  
10 order to determine that a filter bag is not necessary?

11 A It may depend upon the amount of water within the  
12 trench. The amount of suspended sediment within that  
13 water. There are times you can walk up to a trench  
14 that's been left for several days and the water is  
15 crystal clear. You may have dense vegetation off to the  
16 side where a simple hay bale sump will handle it as  
17 compared to a combination of a filter bag. It depends  
18 on the location of where you discharge that water. Of  
19 course the filter bag is one of the better mechanisms to  
20 apply. However, it doesn't apply in every situation.

21 Q This question might combine some blasting as well as  
22 environmental considerations and hopefully someone here  
23 can still address it. Has Tennessee tested the  
24 surrounding areas for contamination, for example,

1 surrounding areas of wells and what have you for  
2 potential contamination to wells during and after  
3 blasting?

4 CHAIR: Did you mean before  
5 and after blasting?

6 Q Correct. I'm sorry. I might have said during.

7 A What we normally do for well tests, pre and post blast  
8 are water quality and yield. In and around the area of  
9 the well it's normally not tested. Now what we do as  
10 part of our investigation is to look for and coordinate  
11 with the agencies of any known contaminate sites along  
12 our project corridor.

13 Q Have any those known contaminated sites been identified  
14 as of this point in time?

15 A Not to my knowledge.

16 Q Have there been efforts to ascertain whether such  
17 contaminated sites exist?

18 A Yes, we have. Through out FERC process and also  
19 included within this application.

20 Q Have you exhausted all efforts to identify contaminated  
21 sites?

22 A Yes, we have. We've even as part of our field survey  
23 and visual inspection of the project corridor. We've  
24 also looked for any sort of surface feature which might

1 allude us to think that there is something there. We  
2 also keep an open eye for it during construction,  
3 particularly during the trenching.

4 Q I think it was during your discussion of in stream  
5 drilling and blasting that you had mentioned and it may  
6 have been during your discussion of in the dry. You had  
7 mentioned conforming your approach of the 30 water body  
8 crossings on an as needed basis in the dry. Could you  
9 identify or specify what the criteria are for  
10 determining what the as needed basis would be?

11 A I'm not sure I understand the question. Correct me if  
12 I'm wrong, you might be alluding to that 30 out of the  
13 37 water bodies involved with this project are to be  
14 crossed in the dry. That is going to be the  
15 installation technique. We plan to conform the in  
16 stream drilling and blasting in the dry with those  
17 techniques at those 30 locations.

18 Q On an as needed basis?

19 A Okay, on an as needed basis -- right now we have a  
20 preliminary list of areas where blasting is anticipated.  
21 We don't have a complete list. So it may not be  
22 necessary for all 30 of those areas for any sort of  
23 drilling or blasting.

24 Q So those will be identified I believe you said, when you

1 go out to the field and make further determinations? Is  
2 that it?

3 A That's correct. It's identified prior to and during  
4 construction.

5 Q I think it was your testimony as well, you discussed  
6 that you'd seen the use of old tires to be used as  
7 blasting mats? Tires tied together?

8 A Yes.

9 Q What will be used in this particular project if  
10 Tennessee has identified such a mat procedure?

11 A I'm unsure to this point what techniques are going to be  
12 applied in the field. What we already know we are going  
13 to do is that same end result. We just don't know what  
14 method is going to be applied. We don't know if it's  
15 going to be that type of blast mat.

16 Q Do the various blast mat methods used, have varying  
17 environmental impacts?

18 A Through my experience and there is more than just the  
19 blast mat as I described. If you can envision the tires  
20 are not whole. They are cut into sections and then they  
21 are chained together in that manner. In drier areas, of  
22 course not in the water body, we'll use simple spoil.  
23 We'll place spoil on top of that blast area and let that  
24 be the mat cushion for the blast.

1 Q And I understand that the construction of this pipeline  
2 is intended to follow the same corridor as the existing  
3 pipeline. Have you reviewed the original pipeline  
4 construction records to identify expected subsurface  
5 conditions at wetland crossings and in wetland areas?

6 A I have not. No.

7 Q Do you know whether Tennessee has?

8 A I'll let one of the engineers speak to that.

9 MR. KLEINHENZ: There has been an  
10 overview, I guess you could say a perusal of that  
11 information and based on the time, that was in the year  
12 1951, very little information has been given regarding  
13 that type of information.

14 Q To follow up on a question that I asked you about  
15 shortly before this last question, we were discussing  
16 wet or dry blast. To determine what needs blasting  
17 actually, you'd have to go out into the field. You  
18 don't know until you get there. Who does Tennessee Gas  
19 notify when they make such a determination and when  
20 would such notification take place?

21 A (By Mr. Auriemma) Again, I'm going to have to defer to  
22 Eric on that. The realm of geotechnical investigation  
23 has some environmental consideration but it's not my  
24 full responsibility. I usually coordinate with Eric.

1 MR. KLEINHENZ: Can you repeat the  
2 question?

3 Q During the course of Mr. Auriemma's testimony he had  
4 discussed the fact that Tennessee still needs to  
5 identify whether there would be wet or dry water  
6 crossing and until you get out there Tennessee would not  
7 be certain which technique would be used, and which  
8 water crossings require blasting. Who is it that  
9 Tennessee will notify and when will they notify that  
10 party?

11 MR. KLEINHENZ: Regarding blasting in  
12 these wet crossings, as a matter of fact, for all the  
13 crossings, whether they're dry or wet would be conducted  
14 prior to the actual ditch excavation of the project and  
15 that would be done by the contractor with test drilling  
16 that would be done. So more or less he is running ahead  
17 of his ditch crew to see where there's going to be areas  
18 that would have to be blasted and this is where the  
19 determination for blasting would be verified. No soil  
20 borings would substantiate where a blast would actually  
21 occur. It would be much more prudent to do that prior  
22 to construction.

23 ATTORNEY WAGELING: Excuse me. If I could  
24 interject for a second. I believe yesterday that you

1 all had agreed that you would notify the environmental  
2 inspector the day before any blasting would occur?

3 MR. KLEINHENZ: That would be correct.

4 Q Mr. Auriemma, you had testified that your responses to  
5 the draft of the New Hampshire Department of  
6 Environmental Services, Water Division permit  
7 conditions, that there was a dispute resolution  
8 procedure, it may have been in your pre-filed testimony.  
9 What is the dispute resolution procedure that you  
10 referred to in your supplemental draft pre-filed  
11 testimony? I believe it's at Exhibit #A-68.

12 A Correct. It's in the supplemental pre-filed testimony.  
13 The dispute resolution procedure is going to be a  
14 mechanism that will be implemented in the field with the  
15 representative of the New Hampshire, the environmental  
16 inspector and our environmental inspector and  
17 construction team. Inevitably there is always a  
18 difference of opinion on how something should be  
19 completed during construction. It helps to have that  
20 mechanism in place so any sort of disagreement doesn't  
21 carry on for an extended period, or so we can reach the  
22 best possible beneficial type of procedure that will  
23 make all parties satisfied.

24 Q Do you have a projected time as to, and I believe this

1           may have been in -- Mr. Treddle, you had been discussing  
2           the need for an additional survey to determine what rare  
3           plants might need to be identified and transplanted? Do  
4           you have a projected time period for providing that  
5           information to the Committee or --?

6    A       (By Mr. Treddle)       The previous surveys identified  
7           several populations, a general location of them. We  
8           will need to do another follow up survey of those  
9           locations to pinpoint the exact number of plants that  
10          will fall within the right-of-way. The intent is to do  
11          that in springtime prior to the start of construction.

12  
13   Q       It's my understanding that the Londonderry Conservation  
14          Commission has some proposed regulations. Has there  
15          been any effort by Tennessee to coordinate with the  
16          Londonderry Conservation Commission to address those  
17          proposed regulations and how they might impact the  
18          proposed pipeline?

19   A       (By Mr. Auriemma)    Yes, there has been some discussion  
20          with respect to that issue.

21   Q       Are any of the proposed recommendations of the  
22          Londonderry Conservation Commission being implemented  
23          into Tennessee's construction of the pipeline or  
24          proposed construction?

1 A Yes. I reviewed the proposed regulations of the  
2 Londonderry Conservation Commission and believe we can  
3 comply with them. Again, it's still an ongoing process  
4 as our many other things.

5 CHAIR: This is from which  
6 exhibit?

7 ATTORNEY ROCHWARG: I do not believe it's  
8 been made an exhibit at this point. I just became aware  
9 of it today.

10 CHAIR: So you're questioning  
11 him on something we don't have?

12 ATTORNEY ROCHWARG: Correct. I can see if  
13 I can get that as part of the panel's testimony. I  
14 apologize. I just became aware of it at the break and  
15 I didn't have time to obtain a copy.

16 CHAIR: So could you clarify,  
17 is it a letter that you're referring to?

18 ATTORNEY ROCHWARG: It's actually a  
19 document. It's dated I believe September 13<sup>th</sup> which is  
20 proposed regulations of the Londonderry Conservation  
21 Commission. If I could have one moment I'll just step  
22 to the back of the room. It's a two-page document which  
23 is entitled, "Answers to Some of the Questions about the  
24 Proposed Wetlands Buffer Ordinance." And it indicates

1           that it's been prepared by the Londonderry Conservation  
2           Commission. I can --

3                       CHAIR:                        Could we have multiple  
4           copies of that?

5                       ATTORNEY ROCHWARG:        That would be great.  
6           Thank you very much.

7                       ATTORNEY SMITH:                Could we see that  
8           document please before we go further with it?

9                       ATTORNEY ROCHWARG:        I just have a couple  
10          of final questions, if I could.

11                      ATTORNEY ARNOLD:            If you want to make  
12          copies that's fine. Obviously it's been referred to and  
13          my understanding is that this has already been voted  
14          down by the Town of Londonderry. In any event,  
15          obviously we have not had a chance to review it in any  
16          detail. Apparently it's just a fact sheet answering  
17          questions about a proposed wetlands buffer ordinance.  
18          So it was prepared by the Conservation Commission but we  
19          understand that the ordinance has been rejected already.  
20          But bearing that in mind, if counsel wants to make  
21          copies of it to pass around --

22                      CHAIR:                        Is this on Town  
23          letterhead?

24                      ATTORNEY ROCHWARG:        No, no it's not.

1 CHAIR: However, in response  
2 to the question that you were being asked, you indicated  
3 that you were aware of this? Could you clarify what you  
4 are aware of? Or any discussions that you've had with  
5 the Town about issues?

6 A (By Mr. Auriemma) I was aware that it was a proposed  
7 regulation and was asked to look at it. I glanced at  
8 the material. We took it into consideration. We were  
9 waiting for the final designation of whether it was  
10 going to become rule or be voted down. I hadn't known  
11 until now that according to our staff that --

12 ATTORNEY SMITH: Let me just ask  
13 counsel, does she know whether this ordinance was  
14 rejected?

15 ATTORNEY ROCHWARG: I do not. Not at this  
16 point in time.

17 ATTORNEY ARNOLD: This isn't the  
18 ordinance, in any event. It's just a fact sheet so I'm  
19 going to argue that it is irrelevant at this point.

20 CHAIR: Why don't you ask some  
21 specific questions about, instead of referring to an  
22 ordinance why don't you ask specific questions specific  
23 concerns about --

24 ATTORNEY ROCHWARG: The proposed changes?

1 CHAIR: Well, not even, about  
2 specific concerns about the environment that you may  
3 have.

4 ATTORNEY ROCHWARG: I think what I'd like  
5 to do at this point in time is move on without this  
6 document, quite frankly. Because I just, as I said,  
7 received it at the break and I think for purposes of  
8 this proceeding, what I'd like to do in the event that  
9 I become aware of or are provided with a copy of the  
10 actual proposed regulations, Mr. Chairman, then I can  
11 ask some more specific questions. And I'd just reserve  
12 my right to recall this witness if that becomes  
13 necessary to do so. I don't know that I'm going to be  
14 able to come into this document today. As I said, I  
15 just received this information at the break. So what  
16 I'd like to do is just for purposes of moving the  
17 proceeding along, continue.

18 ATTORNEY ARNOLD: In that same vein, and  
19 I think it was a misunderstanding on behalf of Mr.  
20 Auriemma about the document that was being referred to,  
21 because we don't know the status of either the ordinance  
22 or what its terms are, any suggestion that Tennessee Gas  
23 was going to comply with that, I'd like to make the  
24 record perfectly clear there is no intention to comply

1 with that.

2 ATTORNEY ROCHWARG: Maybe we can clarify  
3 with Mr. Auriemma at some point in time what those  
4 proposed conditions he saw were.

5 CHAIR: Michael?

6 MR CANNATA: Excuse me. Mr.  
7 Chairman, I'm a non-lawyer, and I just wanted to get the  
8 framework of where we are straightened out in my own  
9 mind. I've heard many instances where people have  
10 reserved to question further on in time or, "I have no  
11 further questions of this witness at this time." Are  
12 those time bounds restricted by the time that these  
13 hearings are open? Or is it open ended? I heard the  
14 counsel for LNC say that she may not be able to come  
15 into this document today. If these hearings end today,  
16 what does that reservation mean?

17 CHAIR: Well, this is a  
18 document that was not submitted previously. It is not  
19 even -- she doesn't even know if it's an official  
20 document. She doesn't know the status of it and so I  
21 don't think it should be introduced at this time.

22 ATTORNEY ROCHWARG: As I indicated, I  
23 think just to clarify any of your concerns, Mr. Cannata,  
24 I don't intend to introduce this at this time.

1 Obviously it's not the document which I initially  
2 thought that it was, but should I come into possession  
3 of the proposed regulation, that was my intention to  
4 reserve my right to be able to do that and obviously  
5 it's up to the Chairman of the Committee to make a  
6 determination as to whether the Committee could consider  
7 that.

8 MR. CANNATA: And this isn't the  
9 first time that this has been mentioned. Let's assume  
10 for discussion purposes that the hearings end at some  
11 point today or this evening, and you come into that  
12 document tomorrow, what does that reservation of rights  
13 mean? That's all I'm trying to clear up.

14 CHAIR: And I'm not sure I see  
15 a great deal of relevance about a proposed document  
16 anyway. It might have relevance if it were something  
17 that were passed as a Town Ordinance but there seems to  
18 be a consensus here that isn't even an official  
19 document. It was a proposal at one time and --

20 ATTORNEY ROCHWARG: I also think that  
21 counsel for Tennessee had indicated that it was  
22 overruled and it was rejected as a proposed regulation.  
23 That's obviously something that I was not aware of.

24 MR. CANNATA: For the sake of

1           brevity I'll move on. I'll talk to counsel --

2                           CHAIR:                           So let's move on.

3           Thank you.

4    Q    (By Attorney Rochwarg)    I just have a couple of  
5           questions concerning the wells. Has there been, and I  
6           know that we've discussed the fact that there is a  
7           dispute resolution process of some nature. Does this  
8           include if a landowner has a dispute over a well, is  
9           there a well dispute resolution procedure and if not  
10          would Tennessee agree to commit to one?

11   A    (By Mr. Auriemma)    Let me clarify from a previous  
12          response. The condition of the FERC is probably going to  
13          mandate that. We have not seen the final document. We  
14          have seen it in draft form. Typically, what's in draft  
15          form becomes final with respect to the FERC. It's not  
16          in place at the moment. What it does though is allow  
17          the landowner to, with any concern, of any respect, to  
18          any part of the construction concerning the environment  
19          allow contact between the landowner and Tennessee for  
20          resolution. Whether it relates to wells, clearing,  
21          anything. So it will be in place prior to construction.

22   Q    I have another question concerning the turbidity. Isn't  
23          it a likely result of blasting -- isn't turbidity rather  
24          a likely result of blasting and the second part, can't

1 even temporary turbidity foster bacterial growth in well  
2 water?

3 A (By Mr. Treddle) I'm really not an expert on the  
4 subject. It's my understanding that blasting can cause  
5 well water turbidity. Whether that fosters bacterial  
6 growth, I can't comment on that.

7 Q You had testified that both you and Mr. Treddle, Mr.  
8 Auriemma were environmental inspectors, correct?

9 A (By Mr. Auriemma) That's correct.

10 Q And obviously as environmental inspectors you want to  
11 ensure you take all impacts and potential impacts to the  
12 environment into consideration in any decision making  
13 process or evaluation, correct?

14 A That's correct.

15 Q Otherwise the results of your inspections wouldn't be  
16 accurate?

17 A Correct.

18 Q And you wouldn't be able to provide appropriate  
19 mitigative measures if you weren't aware of all the  
20 potential environmental impacts?

21 A Yes.

22 Q I don't have any further questions of these witnesses.

23 CHAIR: Thank you. Members of  
24 the Committee? Michael? Do you have any questions?

1                   ATTORNEY M. IACOPINO: I just have a couple  
2                   of lawyer-like questions too. I just want to make sure  
3                   of a couple of things.

4                   **EXAMINATION BY ATTORNEY M. IACOPINO:**

5                   Q     In reviewing the Environmental Construction Plan and  
6                   some of the supplemental filings I note references to  
7                   EI, as opposed to either Tennessee environmental  
8                   inspector or DES environmental inspector. In those  
9                   cases, which environmental inspector does that apply to?

10                  A     (By Mr. Auriemma) If it's solely the acronym of EI, of  
11                  course the environmental world is full of acronyms, it  
12                  would apply to the Tennessee inspector. Anywhere we  
13                  intended it to mean the environmental inspector for the  
14                  DES we tried to put NHDES in front of it.

15                  Q     Another thing. I was unsure when you were talking about  
16                  topsoil segregation you indicated that you agreed to  
17                  segregate in wetland and agricultural areas for the  
18                  entire area, correct?

19                  A     Entire area meaning project or within the area of the  
20                  wetland? Or agricultural area?

21                  Q     I understood you to say that in all agricultural and  
22                  wetland areas you will be doing topsoil segregation.

23                  A     That's correct. If I may clarify. In wetland areas  
24                  it's conducted over the ditch line. In agricultural

1 areas it's usually conducted full right-of-way width or  
2 we have the option of ditch line plus spoil side. It's  
3 just going to depend on the preference of the  
4 construction crew. So it's segregated in those areas  
5 yes, but there are different methods depending on the  
6 area.

7 Q Your concern with the DES condition is that they require  
8 you to do it in non agricultural and non wetland areas?

9 A That's a partial concern to us particularly in the way  
10 it was stated as "all" disturbed areas.

11 Q Okay, and how much of this proposed pipeline is in those  
12 non agricultural, non wetland areas? I don't need an  
13 exact number. Is it a majority? Is it --

14 A For a rough number, roughly two-thirds.

15 Q Did you also -- And I got confused about this. This is  
16 just to straighten me out. Did you also indicate that  
17 you'll be segregating in the ditch line in all areas?  
18 All disturbed areas or is that just in the wetlands.

19 A I know, it gets confusing. In the non wetland and non  
20 agricultural areas, in other words, the areas that are  
21 being requested of the permit condition, we're proposing  
22 to do it within the trench line, within those areas.  
23 Basically that would be for the full length of the  
24 project in other than the wetland/agricultural areas.

1 Q Now in your communication with DES have you advised them  
2 of that fact?

3 A Yes, we have.

4 Q And were there conditions required in all disturbed  
5 areas regardless of that communication? Or has there  
6 been some negotiation on that? I'm trying to figure out  
7 where you are with DES on that.

8 A We haven't heard anything back with respect to our  
9 proposal. Simply the ditch line area is compared to the  
10 entire construction area.

11 Q And I take it your proposal came after they issued their  
12 conditions?

13 A That is correct.

14 Q One last question with respect to topsoil segregation.  
15 You indicated that the benefit is minimal for the effort  
16 involved. What is the effort -- I've heard some talk  
17 about different techniques but in terms of -- when you  
18 say "the effort" are you talking about what's actually  
19 going to take people to undertake the topsoil  
20 segregation or the cost of it?

21 A It's the effort by way of labor. If you can envision,  
22 particularly as it's worded, the entire area. You now  
23 have to have additional equipment come in. Normally  
24 it's bulldozer. They'll strip that topsoil and push it

1 to an area of the right-of-way. If there's not enough  
2 work area as presently proposed, we now have to request  
3 further work area because that topsoil has to be stored  
4 somewhere. And it also has to be brought back into the  
5 work area. So for the benefit that we've seen from all  
6 of our projects, all the projects that I've been  
7 involved on with respect to the upland areas as we're  
8 discussing, to do that, I've rarely seen an upland area  
9 not come back and revegetate without implementing that  
10 measure.

11 Q I stepped out when you were talking about geotextile  
12 diapers. I just want to ask you a couple of questions  
13 on that. I know we want to move this hearing along but  
14 -- what does that material cost? What is the cost of  
15 using that material?

16 A (By Mr. Treddle) I'll take a stab at it. I don't know  
17 the exact cost but it certainly is an expensive  
18 material. I think the biggest concern is the  
19 maintenance of it once you've got it installed. It's  
20 something that you have to continually tack back up to  
21 the bridge to keep it there and then really the disposal  
22 is the biggest issue. It's a lot of material. It's  
23 basically plastic. It's material that goes to the  
24 landfill. You know, as John mentioned earlier, proper

1 maintenance of these bridges and equipment crossings  
2 will prevent having to do this belt and suspenders type  
3 extra protection that's going to be costly and generate  
4 more waste that has to be disposed of afterwards.

5 **EXAMINATION BY CHAIR:**

6 Q Clarification there, when you say tacking it back up?  
7 What do you mean, it falls off?

8 A It can or it's attached to the bottom of the bridge in  
9 various --

10 Q But we had testimony earlier that only a bucket of mud  
11 or soil would potentially fall on this fabric. Why  
12 would it be -- if it's tacked on properly why would it  
13 be falling off all the time?

14 A Well, equipment moving over the bridges dislodges --  
15 moves the mats. There's various reasons that it can  
16 come undone. Certainly some of the spoil falling into  
17 it can pull it down a little bit too. But it's just  
18 another maintenance issue.

19 Q And again, just to follow up on the same issue while  
20 we're on it. You indicated that there could be flaking  
21 associated with geo-textile material and my kids have a  
22 trampoline out in the yard which I put away for the  
23 winter last weekend and it's a geo-textile material.  
24 It's not a bouncy material, it's the springs obviously

1           that create the bounce. Not a very expensive type of  
2           material, but it doesn't have any flaking at all and is  
3           obviously very strong and durable. Why is there such a  
4           problem finding a geo-textile material that would  
5           withstand being out in the elements the way a trampoline  
6           is?

7    A    It gets shredded by this heavy equipment tracking over  
8           it and just being in close proximity to heavy equipment.

9    Q    They're driving over it?

10   A    No. It's underneath.

11   Q    How can it get shredded if it's underneath?

12   A    (By Mr. Auriemma) For our construction purposes it's a  
13           different material than the trampoline fabric which your  
14           children enjoy. It makes it more brittle because it's  
15           a more rigid fabric for construction purposes. We can  
16           explore other types of geo-tech fabrics but from what  
17           we've used in the past that has been our experience.

18   Q    It sounds like some of the issues I deal with with my  
19           staff at times when you ask them why it's a problem,  
20           and, "Well, this is because we've always done it this  
21           way" instead of focusing on the performance standard  
22           approach and looking at solutions to achieve the desired  
23           goal as opposed to saying, "Well, gee what we've always  
24           used hasn't worked to our satisfaction so therefore it

1 must not be doable" and that isn't always the answer  
2 that one likes to hear. So I would urge that you take  
3 a look at some of the other alternatives that may  
4 overcome your concerns. Thank you. Michael back to  
5 you.

6 Q (By Attorney M. Iacopino) Getting away from fabrics.  
7 Recently you filed a request for a waiver or variance  
8 from the Shoreline Protection Act. Would you just for  
9 the record tell us why you have done that?

10 A (By Mr. Treddle) In general, one of the conditions of  
11 the Shoreline Protection Act was that there will be no  
12 clearing in the buffer zone of the water body. By the  
13 nature of pipeline construction we cannot install the  
14 pipeline without doing some clearing in the buffer zone.

15 Q When you say 'clearing', you mean trees and brush?

16 A Clearing of trees and brush.

17 Q And that's something that would otherwise be governed by  
18 that New Hampshire --

19 ATTORNEY ARNOLD: If I could just  
20 interject because there is a legal issue here and we  
21 refer to it in our submittal. But, in fact, there is a  
22 provision within the Shoreline Protection Statute that  
23 allows for the Commissioner to provide for a waiver, or  
24 to allow this project to go forward because it involves

1 a transmission line, a gas line if he thinks it's  
2 necessary. So we think that that is the standard and  
3 that's what we've asserted in our submittal.

4 ATTORNEY SMITH: Excuse me. Could I  
5 just make something clear because I think it's obscure.  
6 Our original application intended to ask the same waiver  
7 but you have to look very closely because what it refers  
8 to is the statutory authority waiver. That's all it  
9 does. When we were preparing for this hearing we  
10 thought it might be but we didn't realize there was a  
11 form for a waiver. So all we've really done is change  
12 the form of the request but we knew the original request  
13 was the same.

14 ATTORNEY M. IACOPINO: I just wanted to make  
15 sure that we had it in the record the reasons why it was  
16 there.

17 Q The last thing I just want to get back to, Mr. Treddle,  
18 is the issue of the mixing zone. Measuring of the  
19 turbidity there. I don't want it to be -- I don't want  
20 you to think I've been unfair -- when I say bias I don't  
21 mean personal bias or anything like that. I mean bias  
22 in the way that a study was designed and conducted. And  
23 sort of what I've learned since about that and you can  
24 either confirm or deny this for me is that you didn't,

1           you and the people who were doing the evaluation didn't  
2           design the way the study was to be conducted. Is that  
3           correct?

4    A       (By Mr. Treddle) I was part of a group of people  
5           including the DES that developed the condition.

6    Q       Did the DES members, or at least in your opinion from  
7           dealing with the DES members who helped design that  
8           condition have the same theory, shall we say, of what  
9           the results would be as you did?

10   A       I don't think anybody knew exactly what the results were  
11           going to be. Everybody knew that there was a potential  
12           to create or there was going to be some turbidity  
13           created during construction of the project. We were  
14           attempting to come up with a plan to enable construction  
15           to go forward. We came up with some time frames that  
16           were based on some modeling that was done. This is what  
17           we think will happen. But nobody knew exactly what was  
18           going to happen because every site is a little bit  
19           different. So we came up with a plan, everybody's best  
20           professional judgment, that seemed to be a workable  
21           solution. But then, when it was implemented we found  
22           that it was much more labor intensive and cumbersome  
23           than I don't think anyone anticipated.

24   Q       And the results confirmed what you thought would be the

1 results anyway?

2 A Yes.

3 Q And you've dealt with the DES on that and you negotiated  
4 with them and has the proposal that you have contained  
5 in your supplemental filing, has that been responded to  
6 by the DES?

7 A Not yet.

8 Q I have no further questions.

9 CHAIR: Michael?

10 **EXAMINATION BY COMMISSIONER CANNATA:**

11 Q There are just a few areas that I'd like to touch on  
12 that were discussed. The first area goes back to the  
13 disposal of trench water condition #A-9 which was  
14 discussed this morning. And I believe it was stated  
15 that the Applicant wanted to work things out on a case  
16 by case basis or site by site basis with the  
17 environmental inspector which I think you meant the DES  
18 inspector. Who would have the final say on working that  
19 out?

20 A (By Mr. Auriemma) That's a good question. That goes  
21 back to our lessons learned approach. Because I believe  
22 on PNGTS there was no dispute resolution procedure as to  
23 who would have final say. We know on that project who  
24 eventually ended up having final say.

1 Q That's why I'm asking the question.

2 A What we are hoping to do with that procedure, it's in  
3 development, it's not finalized yet. Is to make it  
4 agreeable to all parties to become satisfied. If for  
5 some reason there can't be, there's going to be a  
6 mechanism in there that may kick it back or probably  
7 we'll even kick it back to people outside of just the  
8 environmental inspectors in the field. The final say,  
9 I'm unsure of where the plan stands now with respect to  
10 that but hopefully it becomes a mutual agreement to  
11 satisfy all parties.

12 Q By kicking it back do you mean kicking it back to the  
13 environmental inspectors superiors or at DES?

14 A What would happen is it would go beyond the  
15 environmental inspectors. It would come back to DES  
16 staff who are not considered to be the environmental  
17 inspector applied to the project and possibly other  
18 personnel who are not the inspection staff for Tennessee  
19 Gas.

20 ATTORNEY M. IACOPINO: Mike, to you mind if  
21 I?

22 MR CANNATA: No. Go ahead.

23 ATTORNEY M. IACOPINO: In your supplemental  
24 filing on last Friday your response to question #12 on

1 page 10, you indicated you did not agree with the  
2 response of Peter Walker with respect to sanctions in  
3 the event of violations. That basically was an  
4 agreement that DES reserves the right to enforce the  
5 provisions of all applicable state law pertaining to the  
6 project and specifically the right to issue  
7 administrative orders and fines. Doesn't that pretty  
8 much answer the question of who has the final authority?

9 ATTORNEY ARNOLD: I think the  
10 distinction, if I may, is one is reaching a field  
11 solution to the mechanisms that are going to be abided  
12 by as opposed to a clear violation of a condition of  
13 approval. So what we have proposed to DES is that we  
14 come up with a dispute resolution mechanism so that when  
15 you have these areas where we've requested there be site  
16 specific determinations, if the NHDES EI and the  
17 Tennessee Gas EI can't agree then we come up with a  
18 mechanism that affords a resolution of that that's  
19 expeditious and with the expertise that needs to deal  
20 with it. But I wouldn't view that as being the same as  
21 saying DES has ultimate enforcement authority because it  
22 seems to me until there is an agreement on what the  
23 method is going to be there can't be a determination  
24 that there's been a violation.

1                   ATTORNEY M. IACOPINO:     I guess my question  
2                   though is does the Applicant object if such a condition  
3                   is that the DES has the ultimate enforcement authority  
4                   and the statutory right to issue administrative orders  
5                   and fines with respect to violations?

6                   ATTORNEY ARNOLD:                 We don't disagree that  
7                   the state has the authority to do that and it says it  
8                   doesn't either.

9                   ATTORNEY M. IACOPINO:     Is that supposed to  
10                  say does not agree or it does not disagree?

11                  ATTORNEY ARNOLD:                 I'm     sorry,     I'm  
12                  struggling --

13                  ATTORNEY M. IACOPINO:     I'm talking about on  
14                  page 10 of Mr. Auriemma's supplementary direct pre-filed  
15                  testimony which is in the booklet that we received last  
16                  Friday, dated October 18<sup>th</sup>.   Supplemental filing #2.

17                  ATTORNEY ARNOLD:                 Our intention is to  
18                  agree with the statement that DES has the authority to  
19                  enforce violations.

20                  ATTORNEY M. IACOPINO:     Thank you.

21                  **CONTINUED EXAMINATION BY COMMISSIONER CANNATA:**

22                  Q     The second area I wanted to follow up on a question to  
23                  Mr.   Kleinhenz   from   counsel   from   LNC   regarding  
24                  determination of substrata on crossings and I believe

1 your answer was that the review of the eight inch  
2 records did not reveal any information. Is he in the  
3 room? Okay sorry. I'll move on to  
4 another question  
5 while we're waiting.  
6 On the seven wet  
7 crossings, I believe  
8 the testimony of the  
9 company was on dry  
10 crossings they wanted  
11 to be sure that the  
12 material was of such  
13 a nature that the  
14 pipe could be  
15 properly placed so it  
16 would not be damaged  
17 in the dry crossing,  
18 is that correct?

19 A (By Mr. Auriemma) I'm sorry, could you repeat the  
20 question?

21 Q I believe the Company testified that during dry  
22 crossings, that they use the dry crossing to be able to  
23 ensure that the pipe is not set down on rock and that  
24 the materials are properly set in along the pipe to

1 ensure the integrity of the pipe. Is that correct?

2 A That's correct. That's for trench de-watering. That's  
3 correct.

4 -----

5 Q The question is in the seven wet crossings how do you  
6 assure that that's the case, that the material is --  
7 that there's no rocks etc. and this is being set  
8 properly?

9 A There are several factors to consider and that's a good  
10 question. First of, at water body crossings the pipe is  
11 concrete coated, which is a completely different  
12 atmosphere than just laying it with the fusion bond  
13 epoxy coat. Also, what we do is we'll probe that trench  
14 area. They'll just go and -- someone, depending on the  
15 size of the water body could even get out there in a  
16 boat and we'll probe that trench area just to make sure  
17 that nothing solid is down there. If it is, we do have  
18 the concrete coating to mitigate for that fact.

19 ATTORNEY WAGELING: If I could interject.  
20 Yesterday there was an agreement between Haley &  
21 Aldridge and testified to by the Applicant that they  
22 will backfill the whole trench with clean gravel bank  
23 run for the whole trench.

24 MR. CANNATA: For the wet

1 crossings?

2 ATTORNEY WAGELING: The wet crossings.

3 Q Okay. And a right-of-way question. I'm under the  
4 impression that the Applicant has rights-of-way.

5 ATTORNEY ARNOLD: Mr. Cannata, I hate to  
6 interrupt you but I don't think that our right-of-way  
7 person is in the room.

8 MR. CANNATA: We're 0 for 2. I've  
9 got two questions and those people aren't here.

10 ATTORNEY ARNOLD: I'm sorry.

11 CHAIR: Well, he'll be on  
12 later, won't he?

13 ATTORNEY ARNOLD: Yes. Perfect timing.

14 (Arrival of Mr. Lopez)

15 MR. CANNATA: This is only a quick  
16 question.

17 **EXAMINATION OF MR. LOPEZ BY COMMISSIONER CANNATA:**

18 Q I'm under the assumption that the Company has a right-  
19 of-way for its existing facilities and does not own the  
20 land in fee.

21 A That's correct.

22 Q And that the timber in New Hampshire belongs to New  
23 Hampshire landowners?

24 A Yes, that's correct.

1 Q Who gets the money for any valuable timber? Or you had  
2 -- the phrase I think you used was 'usable' timber  
3 versus something non-usable like slash, firewood and/or  
4 lumber, is that credited to the landowner?

5 A The landowner will be compensated for any timber that we  
6 have to clear.

7 Q Okay, thank you.

8 MR. CANNATA: Did Mr. Kleinhenz come  
9 back yet?

10 MR. HAMARICH: Eric had to leave. He  
11 had a flight out tomorrow but his wife is ill and had to  
12 go to the hospital so he's been released. Mr.  
13 Richardson has left too so I'll try to fill in and  
14 supplement any questions you have.

15 MR. CANNATA: Alright. There was  
16 just one question.

17 **EXAMINATION OF MR. HAMARICH BY COMMISSIONER CANNATA:**

18 Q There was a question asked about being able to determine  
19 the substrata material at crossings and I believe Mr.  
20 Kleinhenz's answer was that review of the records of the  
21 eight inch pipe did not reveal anything of much use.  
22 And what my question was, that may be so 50 years ago  
23 but there was a three phase project for the 12 inch,  
24 although 15 feet away. I'm wondering if you're able to

1 extract any information about the substrata from the 12  
2 inch pipe, which is along that route for 90 percent of  
3 the line.

4 A We were not able to correlate, or did not correlate any  
5 of the data from either the eight inch line or the 12  
6 inch line, in regards to substrata conditions.

7 Q Either line, okay. That's what I wanted to check and  
8 make sure you've done both. Thank you. That's all I  
9 have.

10 CHAIR: Other questions? A  
11 couple of quick ones from me.

12 **EXAMINATION OF PANEL BY CHAIR:**

13 Q Mr. Treddle, you referred a couple of times to your  
14 experience with the PNGTS construction. Were there any  
15 delays in the construction project on the PNGTS line?

16 A Yes. The project took longer than expected.

17 Q And could you describe the delay? How long and what  
18 time frames of the year that was.

19 A Well, I'd like to clarify that it was two separate  
20 projects. There was the PNGTS North project and then  
21 the PNGTS-Maritimes. The PNGTS-Maritimes joint  
22 facilities in the south was pretty much on schedule, I  
23 think.

24 Q Right. I'm referring to the North.

1 A I don't remember exactly when it was completed. The  
2 North was about -- extended into February before it was  
3 completed. There were a number of circumstances,  
4 primarily weather related, that from my understanding,  
5 that extended the construction season.

6 Q Were there any well related problems or disputes as a  
7 result of that pipeline construction?

8 A I don't have any direct information on that. I've heard  
9 hearsay that there were landowner complaints afterwards.  
10 But I don't have any information on that.

11 Q Okay. But you've heard that that's the case?

12 A I've heard there were complaints, yes.

13 Q As someone closely involved with the project you did  
14 hear that there were problems.

15 A Yes.

16 Q As it relates to the wells themselves, one of my  
17 concerns is making sure that people who have wells near  
18 this project do, in fact, not suffer degradation of  
19 water quality. And my concern is not just with the  
20 blasting issue but obviously all the other activities  
21 surrounding the project, which can include construction  
22 activity, can include regrading, which changes surface  
23 water flow inadvertently, etc. And in some of those  
24 cases there may be people who are some distance from --

1           they may not have had a pre-blast survey, for example.  
2           What will they do if they suddenly, in the spring of  
3           2002 or in the fall of 2001, seem to notice that they  
4           have a turbidity problem, an odor, taste, some esthetic  
5           problems as well as perhaps some chemical issues?

6    A       Those concerns would be relayed to the right-of-way  
7           department, who would perform an investigation.  And I  
8           probably should defer that to them.

9    Q       Okay.

10                   MR.  HAMARICH:                   Just        want        a  
11           clarification on the question, at what distance are you  
12           talking about from the pipeline?  Are you talking about  
13           within the 200 feet that we discussed?

14                   CHAIR:                            I'm saying that if you  
15           have a problem with some people who are along the right-  
16           of-way who perhaps were not part of a pre-blast survey  
17           or who perhaps did have one but experienced degradation  
18           of water quality, not immediately after your  
19           construction, perhaps it was several months later.  Will  
20           you be working with these people to try to ensure that  
21           their concerns are addressed?  It was a very important  
22           issue to a number of people with the other pipeline  
23           construction project.

24                   MR.  LOPEZ:                            Are you saying that

1           this is for people who are outside of our 200 foot  
2           corridor, that we're going to check?

3                         CHAIR:                         Yes.

4                         MR. LOPEZ:                         Well, I'll answer you  
5           this way: we have right-of-way agents who will be out on  
6           the job during construction and after construction for  
7           clean up and to settle damages. That would probably be  
8           the way. We'd have to work through our right-of-way  
9           department, bring in whatever experts we can to  
10          determine whether or not its Tennessee's responsibility.  
11          If it is then we'll live up to the responsibility and  
12          take whatever mitigative measures are necessary.

13                        CHAIR:                        Okay. I just want the  
14          homeowners to be assured that if there is something that  
15          can be related to the activity of the pipeline  
16          construction, that they'll have an opportunity to have  
17          it mitigated if it's reasonably apparent that it is  
18          related.

19                        MR. LOPEZ:                        Yes.

20                        CHAIR:                        Thank you.

21    Q    Mr. Treddle, were there any erosion control problems in  
22          the northern segment?

23    A    (By Mr. Treddle) Yes.

24    Q    There were. Were there any lessons learned from that

1 experience, in your opinion?

2 A I think that the best management practices were  
3 employed. The biggest lesson learned is that sometimes  
4 Mother Nature is pretty hard to control. We intend to  
5 install erosion control measures to the greatest extent  
6 possible to prevent any sedimentation or erosion control  
7 problems on this project.

8 Q And can weather also effect turbidity in the stream or  
9 river --

10 A Certainly.

11 Q -- as a result of your project?

12 A As a natural occurrence, as well as a result of our  
13 project. Turbidity can be caused by either.

14 Q Thank you.

15 CHAIR: Any other questions?  
16 Thank you very much. While we're preparing for the next  
17 panel why don't we take a five minute break. Also, we  
18 have a request from Mr. Finch to offer some remarks. In  
19 five minutes could you take three minutes in five  
20 minutes? Thank you.

21 (Off the record for break)

22 CHAIR: F o r p u b l i c  
23 informational purposes I assume that we'll continue the  
24 hearing for another few hours in the hopes of finishing

1 this hearing today so that we would not need to  
2 reschedule. So, if you have plans, try to cancel them.  
3 That is our intention. And if everything goes well we  
4 may finish by seven or eight this evening. Mr. Finch?

5 MR. FINCH: Thank you very much  
6 Mr. Varney.

7 **STATEMENT BY MR. FINCH:**

8 My name is Jim Finch. I am a resident taxpayer and  
9 property owner in Londonderry and have been for 22  
10 years. I want to thank you for giving me a chance to  
11 make a few comments.

12 We've certainly had a wide ranging discussion so  
13 far over these three days but we don't want to lose  
14 sight of the fact that the focus of this meeting is to  
15 take out of service a 50 year old eight inch pipeline,  
16 which probably used 50 year old technology. And we're  
17 talking about replacing it with a 20 inch pipeline  
18 that's going to use 21<sup>st</sup> century technology. I had the  
19 pleasure of being an intervenor on the AES project 20  
20 months in a hearing before you, when I represented the  
21 Londonderry Coalition for AES. That was an organization  
22 that we put together of 1,000 Londonderry voters who  
23 were supportive of the AES project. When you approved  
24 that unanimously in May of 1999, you knew ahead of time

1           that this application would be coming along. Obviously  
2           you didn't approve the AES project without certainly  
3           leaning in the direction of also approving this. You  
4           would certainly would not cut off the supply line to a  
5           300 million dollar gas fired generating plant.

6           So I think the focus now is on the safety involved,  
7           both to people and the environment in the installation  
8           of this. So the answer is: does the Tennessee Gas  
9           Transmission Company have the expertise, the experience  
10          and the financial resources to complete this project?  
11          And I think, from what we've heard so far, the answer  
12          has to be a very rousing affirmative. The best  
13          predictor of the future is always what has been the  
14          experience in the past. And in Londonderry we've had a  
15          pipeline in the ground for 50 years and we've had  
16          another one in the ground for, I believe, 19 years. So  
17          we have had a lot of experience with pipelines in  
18          Londonderry and we've never had an incident.

19          This pipeline is important because, although it's  
20          difficult to identify our national energy policy, we can  
21          take some indication of it from the action of the  
22          Federal Energy Regulatory Commission, who is not  
23          approving additional nuclear power plants, not approving  
24          additional coal fired or oil fired power plants. They

1 are encouraging the establishment of additional natural  
2 gas fired facilities. And along with that, they are  
3 giving priority to the pipelines needed to supply these  
4 generating plants.

5 Last but not least, I'll tell you that this morning  
6 I got up a couple of hours early. My wife said, "Jim,  
7 where are you going?" And I said, "I've got a date with  
8 a pipeline" and she said, "I should have known." So I  
9 went out and walked the pipeline in Londonderry closest  
10 to our schools and I started -- if you're familiar with  
11 Londonderry, I started on Pillsbury Road and walked  
12 north and the first thing I came to was or is the  
13 kindergarten building, which today is simply a site  
14 under construction. Nothing above ground yet. And I  
15 would estimate that the distance from the right-of-way  
16 to the kindergarten is somewhere between 150 and 200  
17 feet. Off to the east is Londonderry's first elementary  
18 school, which happens to be the largest elementary  
19 school in the state, Matthew Thornton. And that is over  
20 500 feet away. Continuing to walk north I could see our  
21 high school, probably about 400 feet away. And then I  
22 came to our middle school, which was built around 19 --  
23 the late 80's I believe, and expanded, actually doubled  
24 in size in 1996. And I have to tell you I was really

1 taken away by how close our school, the middle school,  
2 is to the right-of-way.

3 When they built the original part of the building  
4 it was probably 200 feet from the pipeline. The new  
5 extension is probably 180 feet. So if you stand at the  
6 back door of the middle school and walk across about a  
7 12 foot roadway there's a fence and you can peer down  
8 right almost on top of the right-of-way. Now that  
9 right-of-way was there five decades before the school  
10 was built. I was really surprised that it was in the  
11 judgement of our school department to add to that  
12 building in such a way that it would bring the building  
13 that close to the right-of-way.

14 If there is a possibility of moving that pipeline,  
15 as I understand FERC has recommended, there certainly is  
16 going to be some expense involved in that. And it would  
17 be unfortunate to see the company, Tennessee Gas  
18 Transmission, having to pay for the mistake of our  
19 school department. On the other hand, it would be  
20 unfortunate if we had to finance the relocation of that  
21 on our town. So that is a dilemma.

22 Also, earlier you talked about the wetlands,  
23 proposed wetland document. That was a document that was  
24 proposed and a public hearing was held in September by

1 the Planning Board. No action was taken and it was  
2 tabled. It was never passed. So that's all for  
3 additional study.

4 Thank you for letting me make my comments and I  
5 wish you well on making your decision.

6 CHAIR: Thank you.

7 ATTORNEY M. IACOPINO: Mr. Chairman, I  
8 understand that the Applicant's next witness would be  
9 the right-of-way individuals but I understand certain  
10 members of the Committee wish to question Mr. Hamarich  
11 with respect to some pipe design issues. I know that  
12 those Committee members have some engagements so they've  
13 asked if we could take him back.

14 CHAIR: Okay.

15 ATTORNEY WALLS: Mr. Chairman, before  
16 we get to Mr. Hamarich, there are three DES employees  
17 who thought they might be called as witnesses by the  
18 Committee and it's my belief that no member of the  
19 Committee needs to call -- wants to call these witnesses  
20 today. And I don't believe Public Counsel wants to call  
21 them either. So I was looking for some indication --

22 CHAIR: Does anyone have  
23 questions for the DES staff that are here?

24 ATTORNEY WALLS: -- that they might be

1 excused.

2 CHAIR: Okay. Thanks.

3 ATTORNEY WALLS: Thank you.

4 CHAIR: Go home but take some  
5 paperwork with you. They think I'm kidding. Was it  
6 Michael who had the question for Mr. Hamarich?

7 MR. TAYLOR: I did.

8 CHAIR: Oh, Jeff did. I'm  
9 sorry.

10 **EXAMINATION OF MR. HAMARICH BY COMMISSIONER TAYLOR:**

11 Q Good to see you again, Mr. Hamarich. There have been a  
12 number of offers by the Company, one in particular, that  
13 deals with this issue of public gathering places in  
14 close proximity to the existing pipeline. And my  
15 questions relate to resolving some of the concerns that  
16 were expressed by Mr. Finch and earlier expressed this  
17 afternoon by Mr. Kerns. In looking at the alternatives  
18 that were suggested for evaluation by FERC, I gathered  
19 that there is one school in Pelham that is under 20 feet  
20 away from the existing pipeline, in fact, I believe it's  
21 the school in which we had the public informational  
22 meeting back last spring. And the school that has been  
23 referenced in Londonderry as being within 40 or 50 feet  
24 of the eight inch pipeline. Are there other public

1 gathering places along the right-of-way that you're  
2 aware of that are less than 100 feet away from the  
3 pipeline? Are those the only two or are there other  
4 public gathering buildings?

5 A What I can say is the pipeline in Pelham, I believe, is  
6 41 feet from the pipe construction easement. Just a  
7 clarification of the 20. As far as public gathering  
8 places, we never did discuss that in detail. We just  
9 discussed the school. We were looking at the  
10 Londonderry School and what is defined as a public  
11 gathering place were some of those playgrounds and  
12 soccer fields, also in Muldoon Park. I don't know  
13 exactly where you're saying as far as any others, have  
14 we identified any others..But public gathering --

15 Q Town halls, places where town meetings are held. Places  
16 where we might expect large gatherings of the public to  
17 be. To your knowledge, would those two schools be the  
18 structures that would fall within the standard of being  
19 within 100 feet of the pipe?

20 A No, they're not the only structures that would fall  
21 within that code.

22 Q Public gathering structures as opposed to businesses or  
23 private residences.

24 A There may be others on the system.

1 Q Alright. There was --

2 CHAIR: J u s t f o r  
3 clarification, when you say others along the system,  
4 would they be commercial structures like a supermarket?

5 A There may be and those would fall into the Class 3  
6 location. They would fall as a Class 3 location in the  
7 design.

8 CHAIR: That's what I thought,  
9 based on the definitions you had read from the manual.

10 A Of Class 3 --

11 CHAIR: Yes.

12 A With over 46 buildings within a mile for intended use.

13 CHAIR: Right.

14 Q As I mentioned yesterday, I have a strong sense of your  
15 rights having been in the right-of-way since 1952 and  
16 the conflict has occurred because of the decisions by  
17 others. And yet, respecting that, I'm trying to pursue  
18 ways that will be a reasonable balance of your interests  
19 and the safety of the individuals who might be gathering  
20 in those schools or in the other buildings. And there's  
21 been a discussion today about the various classes of  
22 pipes, Class 3 and Class 4 in particular. And I may not  
23 be phrasing this question entirely right from an  
24 engineering standpoint but what I'm looking for is some

1 analysis of the increased level of protection that you  
2 might achieve for the individuals in those buildings if  
3 you were to use Class 4 pipe in the immediate vicinity  
4 of the school buildings as opposed to the additional  
5 expense that would be incurred by using that heavier  
6 class pipe. I wondered if you could talk both about the  
7 increased levels of protection that might be achieved,  
8 the increased levels of safety that you would expect to  
9 achieve using a Class 4 pipe, as opposed to the  
10 increased cost that would be incurred by the  
11 installation in a short section close to those  
12 structures of that class pipe.

13 A Let me first go back and start out saying it is our  
14 belief and my testimony that Class 4 pipe will not  
15 provide an inherent safety factor in those areas versus  
16 a Class 3 pipe. And that is in the testimony.

17 Q Okay.

18 A I also want to explain a little bit about class pipe,  
19 what it is. Class 1 pipe is for lesser populated, Class  
20 2 for more populated, Class 3 for even more populated.  
21 Class 4 pipe is for areas such as high rises, such as  
22 pavement to pavement areas, inroads, running along  
23 parallel with roads in the roadways. And the reason --  
24 that's the intent of that class. What it is, what it

1 means is a different, thicker pipe for each class  
2 location. Class 1 has one thickness, Class 2 has a  
3 little more thickness, Class 3 a little more thickness.  
4 When you get to Class 3 you're still twice as thick  
5 steel to hold the same hoop stress already. So you're  
6 twice as thick. You get to Class 4 maybe you're 2.2  
7 times thicker. I'm not running the calculations here.

8 Q But the major increment is between 2 and 3 and a more  
9 modest increment between 3 and 4, is that what you're --

10 A The major increment is between 1 and 2 then 2 and 3 and  
11 then -- 1 and 2 is the biggest increment, 2 and 3 -- I  
12 mean, 2 and 3 and 3 and 4 are about the same increment.  
13 And, like Mr. Marini said this morning, enhancements to  
14 these -- any enhancements to these standards and codes  
15 really aren't any -- wouldn't enhance public safety.  
16 But let me go on that and go back to your other  
17 questions now. Now that I've defined that I forget the  
18 questions we were --.

19 Q The additional expense that would be incurred for  
20 installing the heavier class pipe.

21 A Well, the expense is really not the issue in regards to  
22 it doesn't add any value to that. We've got codes and  
23 standards and it's not just the pipe itself. It's like  
24 I said earlier, you put the pipe in there and then you

1 have to have this maintenance program to protect that  
2 pipe with cathodic protection, with patrols and whatnot.  
3 So it's really not -- it's to the point that it's  
4 really not adding any value to the safety regardless of  
5 the cost. Similar to our testimony on the intelligent  
6 pig and some of those other analogies. I don't want to  
7 -- that is the position, that's the standard of where  
8 we're at and we're at a point that we feel very  
9 comfortable that we could assure the safety of the  
10 public within those areas with the Class 3 pipe. We've  
11 already committed to expand the Class 3 areas along the  
12 route.

13 **EXAMINATION BY CHAIR:**

14 Q Understood. Would you, however, agree with me that if  
15 you were to tell the average citizen that you had a  
16 choice of pipe and that the one that is being installed  
17 is the thickest pipe that they install for gas  
18 pipelines, would there be perhaps some, in terms of  
19 public reaction, the public might feel better at least  
20 even if you feel that there's no -- I mean, what is the  
21 -- if there's no value why does your industry have  
22 different classes of pipe in the first place if  
23 everything is safe and there's no difference of safety  
24 to your adjacent populations?

1 A I think you know the answer to that question so I'm not  
2 even going to answer that because we could  
3 hypothetically talk about many, many things here to that  
4 respect, including not even having a pipeline there.  
5 Therefore, we're here before the Committee to try to  
6 present a proposal that's reasonable in all aspects.

7 Q Right. But I'm asking if you could answer the question,  
8 which was the price differential between Class 3 and  
9 Class 4.

10 A Let me go back and explain why -- again, is the reason  
11 for the not added benefit. The Class 4 pipe and the  
12 intent of Class 4 pipe, and as we've testified, we have  
13 Class 4 in one or two areas on our system. It's very  
14 rare. It's in areas -- the intent of Class 4 pipe is in  
15 areas where you have high rise buildings, multi-story,  
16 you're built -- the pipelines are in roadways usually,  
17 in areas where they shared other utility corridors where  
18 you need the extra pipe for -- the extra pipe is there  
19 because you cannot implement some of your other  
20 maintenance activities. You cannot sometimes adequately  
21 get cathodic protection on it. You have a lot of  
22 activity, way increased activity from third party  
23 damages. You may not be able to even detect leaks in  
24 environments like that. That is the reason for Class 4

1 pipe. As I've said before and I have testified, there  
2 is really nothing that qualifies on this project for  
3 that type of design in the system.

4 Q We realize that's your opinion and that was very clear  
5 in your prior testimony. We're not trying to suggest  
6 that you change your opinion. We're asking you to  
7 answer our questions. One of our questions was what is  
8 the price differential between Class 3 and Class 4 pipe?

9 A I cannot adequately answer that right here. I don't  
10 have the figures with me.

11 Q Can you follow up on that with the Committee?

12 A Sure. And let me say it's material and installation.  
13 Yes, I can follow up.

14 Q And if theoretically again we -- and we don't even have  
15 the town here so we can't even ask them this at the  
16 moment. But if, for example, the town came to the gas  
17 pipeline company and said, "Gee, we would like to put in  
18 the heaviest pipe possible in this area and we, as the  
19 town of Londonderry, are willing to pay any additional  
20 costs to the company to have it in. While you're  
21 opening the trench and you've got to put pipe down  
22 anyway, could we pay you the extra to put in Class 4  
23 pipe instead of Class 3 pipe so we can have our  
24 residents know that it's the heaviest pipe of the four

1 classes?" What would the Company say to that kind of a  
2 scenario?

3 A I don't think the Company would agree to a scenario like  
4 that. It is not the Company's intent or operations to  
5 have the towns support any of the pipeline design, any  
6 of the pipeline costs. It is our pipeline, it is our  
7 cost. I think there would be too many legalities, too  
8 many liabilities. I just think that's a scenario that  
9 we don't want to really go. It would really be  
10 difficult.

11 Q That's right. But it's their kids who are in the  
12 schools and you're in Houston.

13 ATTORNEY SMITH: Can I just try to be  
14 helpful, Mr. Chairman?

15 CHAIR: Yes.

16 ATTORNEY SMITH: I think -- it occurs  
17 to me that as you probably realize, there are people  
18 with different responsibilities on this project and I  
19 think we've been pretty clear about that.

20 CHAIR: Yes.

21 ATTORNEY SMITH: And then they work  
22 together as a team but they really do have different  
23 responsibilities. If I could suggest, as counsel for  
24 the Company, in response to your question, if someone

1 proposed something like that I would take whatever it  
2 was that they proposed. I have no idea what the Company  
3 would do with such a proposal but I'm not sure any of us  
4 sitting here today can respond, other than to say if  
5 someone had a proposal I can listen to what people have  
6 to say. I don't have any authority to do anything. I  
7 don't think Mark does either.

8 A (By Mr. Hamarich) I can say this, like Greg, we will  
9 take the recommendation. I can give you my opinion based  
10 on my 23 years and as a representative of the company.  
11 At this point in time I don't think -- there's a lot of  
12 reasons I would not like to pursue that type of  
13 arrangement.

14 Q (By Chair) So you have never partnered with other  
15 entities in anything like that?

16 A To my knowledge, in a situation like this, no. In a  
17 situation with a siting similar -- you know, the same  
18 situation. There are other situations that are  
19 different.

20 Q Even if there was no cost difference to you?

21 A Cost isn't the issue. But let's leave it where Greg  
22 said. Let's take it -- to my knowledge, no, on this  
23 area.

24 MR. TAYLOR: Just a follow up

1 question to try and clarify why Class 4 pipe is used.

2 **EXAMINATION BY COMMISSIONER TAYLOR:**

3 Q It's used in more dense urban areas and as I understand  
4 your testimony, Mr. Hamarich, it's used there not so  
5 much because of the increased exposure to individuals  
6 in the event of some incident. It's used in urban areas  
7 because of the more difficult environment in which the  
8 pipe is placed, is that correct?

9 A Correct. That was the intent of the regulation as it  
10 was written and how it is applied.

11 Q But is has, whether by design or by chance, it is used  
12 in areas where there's a higher concentration of human  
13 activity.

14 A Yes.

15 CHAIR: Michael?

16 **EXAMINATION BY COMMISSIONER CANNATA:**

17 Q Just to get some numbers on the record, Mr. Chairman.  
18 You threw out some multiples of what classes were of  
19 another class and I jotted them down quickly. What I  
20 came up with was that roughly a Class 1 pipe is about  
21 .19 inches thick. Is that approximately correct?

22 A No. It would all depend on grade. It's percentages.

23 Q Oh. Of the same type pipe we have here, the X65.

24 A Well, X65 here, the thickness for the Class 3 pipe is

1 .380.

2 Q Right. And --

3 A Class 2 is .317.

4 Q And what is Class 1?

5 A Class 1 would be .2 something. I'd have to calculate it  
6 out. I don't have my calculator with me. Class 1 would  
7 be under -- it would be .2 something.

8 Q And Class 4 would be --

9 A Probably about .4 or more.

10 Q I've got .42 using the 2.2 that you used before.

11 A Probably .42, okay.

12 Q And I thought I heard you say that even at .2 something  
13 the Class 1 is designed with some type of a safety  
14 margin to handle the maximum operating pressures, the  
15 hydrostatic testing and all the things that you talked  
16 about.

17 A Correct.

18 Q Okay. Then to follow up on Commissioner Taylor's  
19 question, in terms of your 23 years not be able to see  
20 why the Company would want to get into such an  
21 arrangement. I mean, there are such things as  
22 contribution during construction, there's tabs that are  
23 paid for by customers. Contributions are not a strange  
24 animal. If it's precedent, I think you agreed on the

1 stand the other day that in areas where you might be  
2 able to have Class 2 you're willing to go to Class 3 at  
3 the Company's expense. And I'm wondering why wouldn't  
4 you agree to go further at somebody else's expense?

5 A The reason is the Class 3 is part of this project. The  
6 intent of it is I can look at that map, I can understand  
7 the future growth possibilities of the school, that they  
8 may want to come closer to that property. So listening  
9 to the whole situation, it's already Class 3, that was  
10 the intent. We realized the intent of the Code 3, which  
11 is your playground in that area, we're looking at that  
12 very closely. We've taken growth areas into the design  
13 of this pipeline to go from -- we already agreed to  
14 Class 2. We're putting Class 2 in wetlands, there's no  
15 population in wetlands. And we're doing a Class 2  
16 minimum so we're putting extra steel in those areas.  
17 The other is -- Class 3 is a different situation. My  
18 concern is on the Class 4, and you're right, I was going  
19 to say, there are reimbursement agreements and things  
20 like that. But we're talking about a safety concern  
21 here and our basis is that the Class 3 pipe is safe and  
22 it's a good design for this system. And to have towns  
23 supplement and decide what is safe, what isn't safe,  
24 regardless of the money, what is safe, what isn't safe

1 is a position that bothers me. There's a difference.  
2 There's a difference when we enter Class 4 in  
3 Londonderry and then there's a school 41 feet away in  
4 Pelham and then there's a homeowner, there's homeowners  
5 that are 20 feet away. And that homeowner, I'm  
6 concerned with that homeowner but I can sit here and  
7 testify that Class 3 pipe, properly designed and  
8 installed and maintained is going to give the protection  
9 to that homeowner. It's going to give the same  
10 protection everywhere we put it. That's my concern.  
11 Regardless of the cost of this. And that's been our  
12 testimony, and it's been supported by other experts on  
13 the PUC and that's really where I'm coming from on that  
14 concern.

15 CHAIR: I think we all  
16 understand your testimony on that and we're not trying  
17 to attack you on your testimony on those assertions.  
18 We're asking a very simple question, which is a very  
19 common practice, in which standards are exceeded. And  
20 you've indicated many instances in which you've chosen  
21 to exceed standards. And we're asking a very logical  
22 question that an average citizen may want to ask about  
23 exceeding standards even perhaps to a greater degree  
24 than you have decided to do. That's all. In a way that

1 would not harm the Company, would not cost the Company  
2 anything necessarily. That's all we're focusing on.

3 ATTORNEY SMITH: Can I offer this? I'm  
4 not familiar with the Company's operations elsewhere.  
5 I do not speak for the Company generally. I'm counsel  
6 for the Company here and we're both trying to be as  
7 helpful as possible to this Committee. If remarks can  
8 be understood as essentially without any particular  
9 charge to me to deal with that broader issue, perhaps I  
10 can be helpful. It occurs to me that the questions  
11 you're asking seem to be as straightforward as you've  
12 described them and would be the kind of political  
13 question that the people in the community, the public  
14 might ask. But it also occurs to me that it is not as  
15 simple as it seems because of the complexity of what  
16 underlies these national standards, all the working  
17 assumptions that underlie a system all across this  
18 country that, for example, a Class 3 pipe where it's  
19 accessible enough and can be maintained the way the  
20 witness has testified, provides safety and an adequate  
21 margin of safety for anyone who lives near that. And I  
22 guess what occurs to me just reasoning my way through  
23 this discussion and nothing more, is that we all know  
24 enough about the body of regulatory law and the body of

1 common law that surrounds it to know that there are  
2 negative implications to what you're talking about here.  
3 That is, it may seem straightforward and simple enough  
4 outside the legal context to say, "Well, if someone else  
5 would put it in and we went over this standard here,  
6 what could possibly be the downside of doing that?" I  
7 think as regular people we can all think that way.

8 So speaking as only Greg Smith, I'll say it occurs  
9 to me that one reason why a company that's involved time  
10 and time and time again in these situations might be  
11 reluctant to deviate in certain situations from what  
12 they believe every bit of the body of scientific  
13 information and regulatory approval says is safe enough,  
14 is that there's going to be that next case that says,  
15 well, if you did that here and something went wrong over  
16 here and you didn't do it over here, what kind of a case  
17 does that generate? A legal case.

18 So I guess, without trying to put too fine a point  
19 on it, there are negative implications to the path that  
20 we're trying to take here being cooperative in a  
21 preemptive situation, and probably some underpinnings  
22 for why a company does not want to go out and do what  
23 might seem simple enough if somebody wants to pay for  
24 it. I hope that's clear and not unclear. It does occur

1 to me that there are dilemmas that would go way beyond  
2 Mark and me. At the moment we are here dealing with this  
3 particular project, the Committee is dealing with this  
4 particular project and I don't generally, as I said,  
5 address the Company policy across the country. But I  
6 think that's probably what underlies, to some extent,  
7 Mark's concern. He's not here authorized to say what  
8 they do. He can only tell you they don't do it. And it  
9 occurs to me that would be a rational reason why they  
10 don't do it.

11 CHAIR: Understood. And let  
12 me just also say that, as I'm sure you're well aware,  
13 many of the people at this table have a fair amount of  
14 experience in dealing with standards and have gone  
15 through a lot of process about how standards were  
16 arrived at, at the state level, at the federal level, as  
17 industry standards. In many cases there were  
18 compromises, many cases there were disagreements about  
19 what those standards should be. In some cases there was  
20 political interference on what the final standards ended  
21 up being, especially at the federal level. So I don't  
22 think that we will all necessarily buy the argument that  
23 these are standards, someone has decided these are the  
24 safe standards and no one shall in any way question them

1 or try to suggest that they be exceeded, particularly in  
2 a way that is not harmful to anyone or in some cases may  
3 not even be costly for people. So I think it's a  
4 legitimate question that Mr. Taylor has asked and would  
5 ask that we hear back from the Applicant on that as soon  
6 as possible.

7 ATTORNEY SMITH: And I think, quite  
8 honestly, we understand all of that. We understand the  
9 Committee's perspective and we appreciate it. We're not  
10 quarreling with that. We all have respective  
11 responsibilities here.

12 CHAIR: Right. Understood.

13 ATTORNEYS SMITH: We understand, Mr.  
14 Chairman.

15 CHAIR: Thank you. Nancy?

16 MS. BROCKWAY: Thank you. I have  
17 questions on this same topic.

18 **EXAMINATION BY COMMISSIONER BROCKWAY:**

19 Q Because of the way that this has emerged in the hearings  
20 I go back through my notes and I can pick out different  
21 parts of what I understand to be the Company's position  
22 about the difference in safety or the issue of the  
23 safety here. But I don't see the Company making an  
24 affirmative case for Class 3 being safe enough and Class

1 4 differentials being addressed to some different topic.  
2 I think rather than just saying, "Well, this is the  
3 standard" and sort of implying that what we ought to do  
4 is just not worry about it, I think it would be more  
5 useful if we concentrated on exactly how safe is Class  
6 3, if it's your position that you shouldn't do Class 4.  
7 And a little bit more about what are the differences  
8 between Class 3 and Class 4 and in what circumstances  
9 Class 4 is used and in what way those are different from  
10 these circumstances. You talked about that but if you  
11 could couch it in a an affirmative way rather than a  
12 reactive way it would be most helpful.

13 A Class 4 pipe would be used if I'm building a pipeline in  
14 downtown Boston. That would be where I would use a  
15 Class 4 pipe or in an area like that. Even a suburb  
16 like that. That is the intent of Class 4 pipe in areas  
17 like that.

18 Q But again, what I understood you to say before is that  
19 that's not because there's a greater concentration of  
20 people near the pipe.

21 A That's part of it but it's also because you cannot --  
22 there's a greater concentration of people of course but  
23 there's also the other maintenance practices that I  
24 talked about. There's comprehensive practice. If it's

1 a Class -- in those areas you put a little heavier  
2 walled pipe because you may not be able to adequately  
3 cathodically protect your pipeline. You can't do much  
4 maintenance underground there once you put that pipeline  
5 in, like you could in an open area where you have access  
6 to the right-of-way and you can't walk the right-of-way  
7 and do an effective leak survey, a helicopter patrol is  
8 not as effective. So this whole -- the marker posts --  
9 so this whole concept, this whole comprehensive -- so  
10 it's not -- I don't want everybody to say that I'm  
11 saying Class 3 pipe or Class 4 pipe one is safer than  
12 the other. What I'm saying is Class 3 pipe has a  
13 certain part of the safety of the pipeline. It's the  
14 strength of the steel, it's the hoop stress, and it  
15 provides a safety factor just for that hoop stress as  
16 the pipe is operating. There are other things that have  
17 to be done and we discussed a lot of that. We have to  
18 maintain the pipeline, we have to install it correctly,  
19 we have to cathodically protect it, we have to patrol  
20 it, we have to make sure Dig-Safe, as we said, were many  
21 of the possibilities if someone digs into the pipe. I'm  
22 not so sure -- I don't want to say this but if a Class  
23 3 or a Class 4 is not going to protect us that well  
24 should there be someone digging on the pipeline in any

1 area. We have to patrol that. What it will do is it  
2 will, say in an area that we can't get cathodic  
3 protection, it's that much extra steel that if we should  
4 get in a corrosive situation for some reason, and in the  
5 areas I'm describing it's more likely that that may  
6 happen because of the operating -- the environment that  
7 the pipeline is in, that you can't maintain cathodic  
8 protection or correct that, a leak or whatever. It  
9 reduces the risk that there may be any failure in the  
10 pipe. So what it basically does is give you a more  
11 safety factor of wall loss through the failure. So  
12 that's the whole intent again.

13 Q Can I follow up and ask you a question about in those  
14 urban settings would you ever use Class 4 -- let me  
15 first ask, would you ever place the pipe above ground?

16 A No.

17 Q Would you ever use Class 4 in an area where you could  
18 get --

19 A Let me go back to that above ground. There are  
20 installations, let me go back. It's not recommended to  
21 put it above ground. There are pipelines installed  
22 above ground across rivers. I know that's not what  
23 you're asking about. Urban. For some reason there may  
24 be pipes on bridges and things like that. Myself, as an

1 engineer, my company as a thing, that is a hard  
2 maintenance thing. We would much rather bury the  
3 pipeline. It would be really hard to -- it's hard to  
4 site one underground let alone above ground. But there  
5 are pipelines above ground so I want to take that back.  
6 But our position would be we wouldn't want to put one  
7 above ground, no.

8 Q When you 'one' are we clear we're both talking about a  
9 Class 4 pipe?

10 A Yes, I'm just --

11 Q Or any pipe.

12 A Any pipe.

13 Q Okay. Because what I'm trying to get at is again the  
14 difference between Class 3 and Class 4. In one of these  
15 urban areas would you ever put a Class 4 pipe in such a  
16 configuration that you had no problem with doing the  
17 walk by or the fly over or the cathodic protection or  
18 any of the other maintenance things?

19 A I cannot answer that exactly because I don't know the  
20 situation. I was just saying the intent of the Class 4  
21 pipe is for that reason. It's also for the -- that was  
22 the intent of the code. That's the way the code is  
23 intended to be interpreted.

24 Q In your own professional judgement, getting away from

1           whatever the regulations say you have to do, if you put  
2           a Class 2 pipe next to an elementary school, would you  
3           expect that the kids would be safe?

4    A    I would feel -- again, I'm going to go back.  It's hard  
5           for me to separate my personal opinion from the code  
6           because I've been looking at the code, I've been working  
7           with the code.  And I have to go back to the code is  
8           designed in that area with this 300 foot circle, it  
9           would be a Class 3 in that area.

10   Q    I guess I'm talking about --

11   A    I would have to support that Class 3 in that particular  
12           area.

13   Q    -- a smaller circle.  So you would say no, you wouldn't  
14           want to put -- your own judgement is you wouldn't want  
15           to put a Class 2, you'd really want to put a Class 3?

16   A    If, according to code, it went to this 300 foot circle  
17           and hit the school or the gathering place.  Or if it was  
18           in the population density.

19   Q    Thank you.

20                   CHAIR:                                   Deborah and then Mike.

21                   MS.  SCHACHTER:                   Thank     you,     Mr.  
22                   Chairman.

23   **EXAMINATION BY COMMISSIONER SCHACHTER:**

24   Q    If I could ask a related question.  I'm still trying to

1 probe this fully. What I thought I heard you say  
2 originally about this issue was that in the Company's  
3 view moving to a Class 4 would be duplicative, if you  
4 will, because Class 3 plus all the various inspection  
5 and other monitoring protections -- Should I wait?

6 A Just moment. I'm sorry. Okay, I'm sorry.

7 Q Okay. What I thought I heard you say in essence, if I  
8 could characterize it as I understood it, was that in  
9 the Company's view there's no need for Class 4 because  
10 Class 3 pipe in the locations proposed plus the various  
11 monitoring and testing and other precautions that you're  
12 taking, this is a safe pipe. Did I correctly understand  
13 your position?

14 A Yes, that is the position that's been stated.

15 Q Okay. And then what I thought I also understood your  
16 position to be was that Class 4 pipe is used in  
17 locations where it's not possible to augment the  
18 inherent safety construction of the pipeline with these  
19 other monitoring, leak testing and other activities.  
20 Where that's more difficult. Did I understand that  
21 correctly?

22 A Yes, that was the intent of why Class 4 was developed.

23 Q Okay. My understanding about that is impaired then when  
24 I look at -- the reason I'm confused and would

1 appreciate your further clarification, in the FERC  
2 filing I'm looking at 11-3, which is in the section on  
3 the liability and safety, the Company has presented that  
4 pipeline design pressures, hydrostatic test pressures,  
5 MAOP, inspection and testing of wells and frequency of  
6 pipeline patrols and leak surveys must also conform to  
7 higher standards in more populated areas. And in this  
8 section it's talking about Classes 1, 2, 3, and 4. And  
9 so what I thought I read when I read that was that if  
10 you're in a Class 4 situation because you're in a very  
11 highly populated area, that you also have to do more  
12 tests, more inspections, more patrols, more leak surveys  
13 so that you would be increasing both the testing and the  
14 thickness of the pipe. Can you explain what I'm not  
15 understanding?

16 A Let me separate class and pipe design. I didn't want to  
17 get into this detailed but I will. A class location --  
18 and you're correct, the higher the class -- a class  
19 location is defined by population density. It's there.  
20 It's a Class 1 -- if we decide -- and it's tied to a  
21 certain pipe if you design exactly to that class. A  
22 Class 2 is designed to a certain pipe if you go to that  
23 class. A Class 3 is designed to pipe if you go to that  
24 class. This pipeline, by definition, by federal

1 regulations, has a lot of Class 1 for instance. There's  
2 no houses within 220 feet anywhere but I'm going to put  
3 in Class 2 pipe. So let's think of it different. I'm  
4 going to put in 60 percent pipe. It's a 100 percent --  
5 it's got a 40 percent safety factor. Class 1 is 72  
6 percent design. It has a 28 percent safety factor. So  
7 let's think of pipe and class.

8 ATTORNEY SMITH: Can you explain what  
9 you mean by percent, before you go on? Percent of what  
10 to what?

11 A Okay. Percent of -- 100 percent yield is in theory  
12 where the hoop stress of the pipe, there's a pressure  
13 where the hoop stress of the pipe starts to yield. It  
14 does not fail at that pressure. In fact, we will  
15 hydrostatically test it sometimes over 100 percent yield  
16 because it's an elastic yield. I don't want to get into  
17 elasticity but it's a yield that the pipe will yield but  
18 come back to its normal condition. So pipe, if you  
19 designed it with the wall and the grade, the thickness,  
20 it's designed at 100 percent. That means, for instance,  
21 let's say I've got 1,000 pounds design, that pipe will  
22 hold that 1,000 pounds. It will actually -- based on  
23 the mechanics of the pipe and the design it will start  
24 to yield at that point. We don't want to put in that

1 pipe. There's no safety factor at all in the steel. So  
2 the safety standards are in a Class 1 it's been  
3 determined that you put in, it's a .72 so you're  
4 actually -- you're operating at a lesser stress level.  
5 You're not even reaching that 100 percent yield.

6 ATTORNEY SMITH: 72 percent of the  
7 pressure?

8 A It's either 72 percent of the pressure but because we  
9 want to keep the pressure constant we raise the  
10 thickness of the pipe because we want to stay at say at  
11 that 1,000 pounds. But yes, it could be -- you would  
12 only be able to operate that at 720 pounds. Let's use  
13 that example. Then in a Class 2 you would only be able  
14 to operate that at 600 pounds and a Class 3 you would  
15 only be able to operate that pipe at 500 pounds.  
16 Realizing the yield is way up here at 1,000, now at a  
17 Class 3 we're down to 500 pounds. Class 4 you would be  
18 able to operate at 400 pounds. But because we design  
19 our system where we want to maintain the ability to  
20 operate the same pressure or maximum operating pressure,  
21 we increased the -- there's two ways to do it. You can  
22 increase the thickness of the pipe or the grade of the  
23 pipe. And our project we're holding the grade or the  
24 yield of the steel and we're going thicker.

1           So that's your pipe, your pressures. The other  
2           thing is your class. What we've got on this line, we've  
3           got a lot of areas that are Class 1 that we're putting  
4           in the Class 2 pipe. We've got a lot of areas that are  
5           Class 2 that we're putting in the Class 3 pipe because  
6           we're -- like we did on the board here, we've looked  
7           into future growth areas so we're going to put in a  
8           little more pipe for when those areas grow up, that  
9           they've got that steel in there. So even if we put  
10          Class 4 at the school, by definition we would operate  
11          that as a Class 3 pipeline because it's not -- it's just  
12          the pipe. So we're talking Class 4 pipe. It's really  
13          what you're looking for is a 40 percent design factor  
14          pipe versus a 50 percent design factor pipe.

15    Q    Okay but if I may, let me ask this question again and  
16          ask if you could put this really in simple lay terms.

17    A    That's why I didn't go there before.

18    Q    What I understand the aspect that I quoted of your  
19          filing to say is that if you were to find yourself in a  
20          Class 4 location because of increased population density  
21          you would need to do two things. Very simplified. You  
22          would need to have a thicker pipe and you would also  
23          need to do more patrolling and testing and surveying.  
24          That's what I read this to say.

1 A Yes. And I don't know what the difference is in --  
2 there's not a big difference in Class 3 and 4 in a lot  
3 of the patrolling requirements but you know, some of  
4 them are grouped together but there are areas where that  
5 changes.

6 Q But in general am I right to understand that the Company  
7 is representing here in the FERC filing --

8 A Oh yes, that's --

9 Q -- that the more populated the area the more testing and  
10 surveying and monitoring you need to do.

11 A All that's doing is quoting the part 192. I don't have  
12 my book. I've got it right here. All that's quoting is  
13 verbatim the way this book is set up.

14 Q So again, for those of us struggling to understand this,  
15 if the Committee were to understand you to suggest that  
16 a Class 4 pipe, a thicker pipe, is a substitute for  
17 enhanced monitoring and leak surveys and pipeline  
18 patrols, then we would be misunderstanding that?

19 A Yes, I didn't say it was a substitute. I'm sorry. And  
20 my testimony doesn't reflect that. The intent was,  
21 because of the inability to effectively carry out those  
22 programs because of the location of the pipe underneath  
23 pavement and in those areas. I never said it was a  
24 substitute or inability -- I mean, a substitute for

1           that.

2                           MS. BROCKWAY:                           That's what it sounded  
3           like to me.

4    A    And if that's the case it's the effectiveness of those  
5           things.  It doesn't mean you go in there and don't try  
6           to get a cathodic protection system in and do a cathodic  
7           protection.  That cathodic protection system should work  
8           but there's a risk that it may not work.  You're exposed  
9           to more third party damage.  It does not change the  
10          requirements and I apologize if that was misleading in  
11          any way.

12                           ATTORNEY SMITH:                           Can I just ask because  
13          I'm trying to follow this too.  Do we understand, Mark,  
14          that if the regulations say there may be more  
15          activities, this combination of things you've told us  
16          all about several times, in a Class 4 area, the  
17          distinction you're trying to explain is that in a place  
18          where it's congested or inaccessible you may try to have  
19          more of those types of activities but the practical  
20          locational realities are that you can't make them as  
21          effective in those locations?  You may have more risk of  
22          third party damage, you may have places where you can't  
23          get at the cathodic protection system even if you're  
24          supposed to be doing it even at an enhanced level.  Is

1           that what you're trying to say?

2       A     That's what I'm trying to say.     That was the intent of  
3           bringing Class 4 in here.

4       **EXAMINATION BY CHAIR:**

5       Q     You just brought up the third party damages.     Could you  
6           explain how the Class 4 pipe provides more protection to  
7           third party damages?

8       A     If someone hit the pipe and they didn't realize it was  
9           pipe the first time and hit it the second time and for  
10          some terrible reason the pipe was to fail, I'm not sure  
11          I could predict the safety factor in there and what it  
12          would do in particular because of the minimal difference  
13          in wall thickness we may be talking about here.

14      Q     But you're the one that raised it as the reason that it  
15          is safer because it's thicker.

16      A     No, I didn't -- you --

17      Q     What did you just say?     Why is Class 4 safer from third  
18          party damages?

19      A     No, I never said it was safer from third party damages.  
20          I said --

21      Q     Yes, you're the one that raised the third party damages,  
22          I didn't.

23      A     It's one of the things -- it's thicker steel so  
24          conceivably in those areas I said you're subject -- I

1 didn't say -- you're subject to more third party damages  
2 in those types of environments so your frequency are  
3 there. So you would have that in. It's just a  
4 combination of things there.

5 Q I'm not quite following your logic here but we'll leave  
6 it at that.

7 CHAIR: Michael?

8 MR. CANNATA: I was just going to  
9 ask that when the Applicant responds to the original  
10 question if you could calculate out the thicknesses of  
11 the four classes. We have two of them on the maps that  
12 have been supplied, the Class 2, Class 3 but could you  
13 supply the Class 1 and Class 4 wall thickness for the  
14 X65 pipe?

15 A Yes.

16 MR. CANNATA: I believe it's around  
17 .24 and .44 but I'll wait for your calculations.

18 CHAIR: Anything else for Mr.  
19 Hamarich? Thank you very much.

20 **DIRECT EXAMINATION OF MR. LOPEZ BY ATTORNEY ARNOLD:**

21 Q Mr. Lopez, you've already been sworn in by Mr. Iacopino  
22 so I'm just going to proceed along and remind you that  
23 you're under oath. Would you please state your full  
24 name and business address for members of the Committee?

1 A Ricardo Lopez, El Paso Building in Houston, Texas.

2 Q Can you tell us what your responsibilities are in this  
3 project?

4 A Yes. I'm the right-of-way coordinator for this project.  
5 I'm responsible for management and supervision of all  
6 right-of-way activities, those would include  
7 identification of landowners, notification of  
8 landowners, title work, negotiation of easements, and  
9 eventually settlement of damage claims.

10 Q Would you also please tell us your educational and work  
11 background?

12 A I attended the University of New Orleans and the  
13 University of Southwest Louisiana. I have 20 years in  
14 New Orleans Gas and the pipeline business, the last 10  
15 of which I've been associated with Tennessee Gas  
16 Pipeline Company.

17 Q Let me show you Applicant's Exhibit 12, which is your  
18 direct pre-filed testimony. Was this prepared under  
19 direction with your assistance?

20 A Yes, it was.

21 Q With the exception of paragraph eight, which was John  
22 Auriemma's testimony and inadvertently placed in there,  
23 is it true and accurate to the best of your knowledge?

24 A Yes, it is.

1 Q And do you adopt it before this Committee today?

2 A Yes, I do.

3 Q Do you have any additional testimony that you would like  
4 to provide the Committee?

5 A Yes.

6 Q Great. Would you tell us, if you can, just in summary  
7 fashion because of the time of the day, what exactly has  
8 been done by Tennessee Gas in relation to its right-of-  
9 way issues on this project?

10 A Sure. When we made the initial contact with landowners  
11 was in January of 1999 and that was done door to door by  
12 several contract right-of-way agents working for  
13 Tennessee Gas. They attempted to call on each landowner  
14 and deliver a letter which described the project in some  
15 detail, just kind of an overview of what we're planning  
16 to do. That was our first contact with landowners.  
17 Once Tennessee Gas decides this was a viable project and  
18 they filed with the Federal Energy Regulatory Commission  
19 we mailed out notifications to all landowners and  
20 abutters as defined by FERC order 609, which included  
21 certain items that were determined by FERC we should  
22 include, in addition to other things that were above and  
23 beyond what we were supposed to include.

24 Q Let me just refer you to the Applicant's Exhibit 45 and

1 I believe there are notification materials that are  
2 attached to this document. It's the Tennessee's  
3 responses to record requests from the EFSEC. Is that  
4 the material that you're referring to in your testimony?

5 A Yes, it is.

6 Q Did you do anything specifically related to the EFSEC  
7 process that you didn't have to do for FERC, which I  
8 believe you just said.

9 A Yes.

10 Q Can you tell us what it was you did?

11 A Yes, we did. We included what's called a Landowner Fact  
12 Sheet, which gives a little more detailed overview of  
13 the project and what landowners should expect in the  
14 coming days leading up to construction and then after  
15 construction. It gives you a project description, it  
16 gives landowners a little overview of negotiations that  
17 they're going to be engaged in during the process. It  
18 gives you some information on construction, some design,  
19 what to expect before, during and after construction.

20 Q Did you also publish notices of this project in local  
21 newspapers?

22 A Yes, we did. It was in three newspapers. *The Windham*  
23 *Independent, The Dracut Dispatch* and *The Eagle Tribune*.  
24 In addition to that the FERC filing was deposited in a

1 library in each of the towns affected by the project.

2 Q Can you also describe for us since this summer when you  
3 began contacting landowners with existing easements or  
4 to acquire temporary work space. Can you just update us  
5 as to what the current status is of those efforts?

6 A Sure. At present we have about 80 percent of the  
7 easements we will require for construction.

8 Q Compared to other projects you've been involved in, how  
9 does that ratio compare at this point of time in the  
10 project?

11 A We're doing very well at this point.

12 Q I'd like to refer you as well to the Applicant's Exhibit  
13 79, which is the preliminary determination on non-  
14 environmental issues from the Federal Energy Regulatory  
15 Commission. And I'd like to refer you specifically to  
16 page 2 where FERC addresses the efforts that Tennessee  
17 is making regarding landowner interests. Would you  
18 please quote from that section or read from that section  
19 to the Committee?

20 A Sure. It says, "Moreover the Commission finds that  
21 Tennessee is making reasonable efforts to accommodate  
22 landowner interests in the siting process."

23 Q And as far as you're concerned in your experience and  
24 throughout this project does that seem to accurately

1 reflect the efforts and the responses that you're  
2 getting from landowners in this project?

3 A Yes, I believe it does.

4 Q I know that the Committee members have raised some  
5 questions to you already and I think probably for the  
6 sake of expediency I would just end my questioning here  
7 and allow people to go forward with other questions they  
8 have.

9 MR. PATCH: Does Public Counsel  
10 have questions?

11 ATTORNEY ROCHWARG: She stepped out of the  
12 room. There she is.

13 ATTORNEY WAGELING: I apologize. I was  
14 listening from the back of the room because my back was  
15 killing me. And I apologize for not being -- I have no  
16 questions. Thank you.

17 MR. PATCH: Neighborhood  
18 Coalition?

19 ATTORNEY ROCHWARG: Very briefly.

20 **CROSS-EXAMINATION BY ATTORNEY ROCHWARG:**

21 Q Mr. Lopez, will you continue as the right-of-way  
22 coordinator to work with and identify landowners in  
23 order to determine what the needs and the rights of  
24 those landowners would be?

1 A Yes, we will.

2 Q You had mentioned earlier in your testimony, if I'm not  
3 mistaken I believe it was you, that in fact if there was  
4 an issue with a landowner over damage to their well or  
5 contamination to their well that you would be the one,  
6 or at least your department would be the one that would  
7 work with the landowner to determine whether in fact  
8 that landowner had any rights in order to negotiate some  
9 type of a resolution to their dispute.

10 A That's correct. We'll have right-of-way agents in the  
11 field during construction to -- well, to answer or try  
12 to answer any of those problems and if not, they'll try  
13 to put them together with the right body. We'll be  
14 liaisons between the landowners and the Company.

15 Q I believe that Chairman Varney raised an issue with  
16 regard to possible contamination and I don't want to  
17 misquote the area of inquiry but it did raise an area of  
18 inquiry for me. In the event of contamination to  
19 someone's well, let's say that it happened long after  
20 construction had been completed. For example, a  
21 landowner discovers one year after blasting occurs or  
22 one year after construction through the right-of-way  
23 occurs, that they believe the cause of disruption or  
24 contamination to their water supply was as a consequence

1 of the construction and/or the blasting, what time  
2 period, if any, does Tennessee Gas intend to impose upon  
3 landowners before they can come forward? And also, what  
4 proof will a landowner need in order to satisfy  
5 Tennessee Gas that there was a connection between the  
6 construction and the contamination or problems that  
7 they're incurring with well water?

8 A I assume there's some statutory limitation so I wouldn't  
9 -- I don't know if -- if you're asking is there a  
10 limitation on how long between the incident that they  
11 think caused it.

12 Q I suppose I'm outside of any statutory limitations which  
13 may apply, does Tennessee Gas have a different limit  
14 that they intend to impose?

15 A Tennessee Gas does not have a different limit. If the  
16 landowner can put forth irrefutable proof some years  
17 down the road that it was our construction activities  
18 that caused this contamination, we're willing to live up  
19 to our responsibilities.

20 Q You used a word that brings something to mind, and I  
21 don't mean to cut you off but you used the word  
22 'irrefutable' proof --

23 A Well, it would have to be proven that it was our fault.  
24 I mean, we'll work with the landowner. We won't call

1 someone and say, "Okay, prove to me that this is our  
2 responsibility." We'll try and work with them to arrive  
3 at a reasonable conclusion.

4 Q And is there a period of time after which Tennessee Gas  
5 presumptively assumes that the damage was not due to  
6 blasting and/or construction in the area?

7 A We do -- we've committed to do blast testing before and  
8 after construction. If anything other than that arises  
9 we'll take that on a case by case basis. But you asked  
10 me before if there was any time limitation, there's not  
11 necessarily any time limitation.

12 Q The FERC order that you're referring to, 609, for  
13 persons who are present who may not be as familiar with  
14 it as you perhaps are, who is required to be notified in  
15 terms of landowners? I know that you stated in your  
16 direct testimony that you sent a letter to all  
17 landowners. Does that mean all landowners in  
18 Londonderry, for example, where the pipeline runs  
19 through or is that a smaller group of people?

20 A The Federal Energy Regulatory Commission gives a pretty  
21 strict definition as to abutter. Well, landowners are  
22 anyone who the pipeline, where there's work space,  
23 excuse me, pipeline or work space is on their property.  
24 An abutter is anyone whose property line abuts that

1 construction area. That's the definition that we've  
2 used to send notifications out.

3 Q No further questions.

4 MR. PATCH: Members of the  
5 Committee have questions?

6 ATTORNEY M. IACOPINO: I just have one  
7 question.

8 **EXAMINATION BY ATTORNEY M. IACOPINO:**

9 Q I know that you have certain notifications that you're  
10 required to provided under the FERC laws pertaining the  
11 federal law. And I know that the Applicant published  
12 notice of these proceedings in papers of general  
13 circulation in the area of the pipeline, which will be  
14 exhibits in this proceeding, I believe. Has the Company  
15 done anything -- and at the public informational  
16 hearings which were held in Londonderry and Pelham there  
17 was also a notice of these proceedings, these  
18 adjudicative proceedings, given to people who went to  
19 those hearings. Has the Company done anything above and  
20 beyond that to notify individuals of these particular  
21 hearings that we're in right now?

22 A I know we sent a lot of notifications to elected  
23 officials in the towns in the area. In addition to that  
24 there was at least one person who asked specifically can

1 I get a notification of this and we've accommodated that  
2 wish.

3 Q That was based on that person's request for you to  
4 notify them of the hearings?

5 A Right.

6 Q Okay.

7 A That's not to say I'm willing to go wholesale  
8 notification if someone requests but.

9 Q No, I understand that. I mean, you're just talking  
10 about that particular instance. That was somebody who  
11 requested --

12 A Correct. I'm just saying what we went above and beyond  
13 what we -- what FERC order 609 tells us to do.

14 ATTORNEY EDWARDS: Mr. Iacopino, I have  
15 another comment to offer in line with what you're  
16 asking. I was just made aware of something I'd like to  
17 ask you about.

18 **RE-CROSS-EXAMINATION BY ATTORNEY EDWARDS:**

19 Q I've been told by members of the Londonderry  
20 Neighborhood Coalition that this notification was not  
21 published in the *Derry News* or *The Londonderry Times* or  
22 *The Manchester Union Leader*. Is that true?

23 A Yes, that's true.

24 Q What paper was it published in?

1 A I gave that answer earlier. It was *The Windham*  
2 *Independent, Dracut Dispatch* and *Eagle Tribune*.

3 Q Those are the only two papers?

4 A They're three papers, yes.

5 Q Three papers.

6 A Yes.

7 Q And you consider that adequate?

8 A It's adequate according to Federal Energy Regulatory  
9 Commission requirements that we publish it in a paper of  
10 general circulation.

11 ATTORNEY M. IACOPINO: I think we're talking  
12 about two different hearings. I was specifically  
13 specifying these hearings.

14 A Oh, I'm sorry. We're talking about --

15 ATTORNEY M. IACOPINO: And if you'll note,  
16 there are affidavits of publication in *The Union Leader*,  
17 in *The Derry News* on your exhibit list and I believe the  
18 originals are in the box.

19 A I apologize. I thought we were talking about the FERC  
20 notification.

21 ATTORNEY M. IACOPINO: No.

22 A Sorry.

23 ATTORNEY M. IACOPINO: You did -- I mean,  
24 there is an affidavit. You did publish those -- notice

1 of this hearing that we've been going on for the last  
2 three days, in *The Union Leader* and *The Derry News*. Is  
3 that correct?

4 A Yes.

5 ATTORNEY ARNOLD: So these other three  
6 papers are in addition to that, is what your testimony  
7 is.

8 A That's a different notification.

9 ATTORNEY M. IACOPINO: So the notification in  
10 the three other papers that you were talking about are  
11 representative of the FERC proceedings, is that correct?

12 A That was the FERC notification that Order 609 tells us  
13 we have to publish.

14 ATTORNEY M. IACOPINO: Thank you.

15 A Sorry.

16 ATTORNEY M. IACOPINO: I just have one other  
17 question. I can't seem to find it right now but I  
18 remember there was some dispute about negotiations with  
19 the owner of a tennis court or something. Has that been  
20 resolved?

21 A Yes, it has.

22 ATTORNEY M. IACOPINO: Thank you.

23 ATTORNEY ANDREWS: So just to clarify  
24 that on our behalf, then I guess I was referring to the

1           FERC Order 609 that Tennessee did not publish in *The*  
2           *Derry News* or *The Londonderry Times* or *The Manchester*  
3           *Union Leader*.

4    A       That's correct. We did not.

5                   CHAIR:                               Any other questions?  
6           Thank you very much.

7    A       Thank you.

8                   ATTORNEY SMITH:                 Mr. Chairman, I think  
9           there are three things I'd like to do this morning. One  
10          is I'd like to just go over the evidence offered by  
11          other parties and reserve the right to rebuttal, which  
12          I assume we will have the right to do. And it's my  
13          understanding the procedure would be to deal with the  
14          admissibility of exhibits, evidence, to the extent that  
15          needs to be addressed at the end of all the testimony,  
16          not at the end of our case, where I strike  
17          identification, for example.

18                   CHAIR:                               Yes.

19                   ATTORNEY SMITH:                 So with that  
20          understanding I'll leave that to the end.

21                   CHAIR:                               Okay.

22                   ATTORNEY SMITH:                 And I have two items  
23          that I'd like to suggest be made exhibits now if that's  
24          alright. One would be the letter that I guess was

1 delivered to the Committee from Mr. Bernstein's office  
2 as counsel for the Town of Londonderry and the school  
3 district, dated today. I'd just ask that that be marked  
4 as an exhibit.

5 CHAIR: And that was  
6 distributed by Mr. Dustin earlier in the day.

7 ATTORNEY M. IACOPINO: What number would that  
8 be?

9 ATTORNEY SMITH: A-90. And then I  
10 would like to offer into the record copies of a FERC  
11 certificate which we received and have tried to  
12 reproduce this afternoon. I had a little difficulty  
13 getting the pages together but I think we now have  
14 copies for the Committee. And we'd like to make that  
15 Exhibit A-91 in this record if there's no objection.

16 CHAIR: Okay.

17 ATTORNEY M. IACOPINO: Mr. Dupee has a  
18 question about the last exhibit. Could you just explain  
19 what it is?

20 ATTORNEY SMITH: Yes. I can try to do  
21 that. I have very few -- it's my understanding from my  
22 clients that today the Federal Energy Regulatory  
23 Commission met and issued this decision. And that this  
24 is stamped 'draft', I don't practice before FERC, maybe

1 others here can try to explain it better than I. But  
2 there was a comment period on the documents we've  
3 previously introduced into the record, the environmental  
4 assessment and the preliminary determination on non-  
5 environmental issues, which I think are both already in  
6 the record, issued in August of this year. There's a  
7 period of time for those participating before FERC to  
8 comment on that and then FERC issues this. So that  
9 period for input, I think, is over and it's my  
10 understanding in the next few days they will turn this  
11 from a draft to a final document and then the judicial  
12 review procedures would take effect. So except for that  
13 short delay I think this is the final FERC decision as  
14 has been related to me. It was faxed to us today,  
15 apparently issued today.

16 ATTORNEY M. IACOPINO: Mr. Chairman, may I  
17 address Mr. Smith a moment?

18 CHAIR: Yes.

19 ATTORNEY M. IACOPINO: Mr. Smith, the copy  
20 that's been given to me obviously is a photocopy. I see  
21 where you reference a draft up at the top where it says,  
22 "stamped draft". At the bottom of my copy it says,  
23 "Property of the Public" something. Do you have what  
24 that is?

1 MR. HAAS: The FERC documents are  
2 stamped, "Property of the Public Reference Room, Do Not  
3 Remove." You can go to the reference room and copy them  
4 and take the copies.

5 ATTORNEY M. IACOPINO: I just wanted to know  
6 what it said.

7 MR. HAAS: We didn't take the  
8 actual copy.

9 MS. SCHACHTER: Mr. Chairman, I wonder  
10 if before we go farther we might decide about when we  
11 might take a break, if we plan to, so those of us with  
12 any conflicts or scheduling needs can envision what the  
13 proceedings may look like for the rest of the evening.

14 CHAIR: Well, we're waiting to  
15 -- are we done with this?

16 ATTORNEY SMITH: Yes. I think we've  
17 completed the presentation of our direct case, Mr.  
18 Chairman.

19 CHAIR: Okay. Thank you.

20 ATTORNEY WAGELING: Mr. Chairman, I have  
21 Richard Stulgis here from Haley and Aldridge, who has  
22 been here for basically the three days of hearings. I  
23 would estimate his direct testimony to be at about a 20  
24 minute range. I'm not sure if the Committee would

1 anticipate having a lengthy time of questioning or if  
2 the intervenors would but if it's possible I certainly  
3 wouldn't mind putting him on before the dinner break but  
4 I certainly leave it to your discretion.

5 CHAIR: Okay. I think we're  
6 planning to break for dinner at about quarter of six so  
7 that would probably work out pretty well in that regard.  
8 Just to clarify for the dinner hour, I think that we're  
9 planning on just momentarily taking a break and then  
10 continue the hearing. We do not plan to break for an  
11 hour at dinnertime but rather will continue the hearing  
12 and work straight through and just take it as if it's a  
13 mid afternoon break that happens to be at dinnertime.  
14 Okay. Are you ready?

15 ATTORNEY WAGELING: Sure. Again, I  
16 certainly don't mind continuing to waive my right to  
17 make a statement of position so that we can move on with  
18 the testimony.

19 **RICHARD STULGIS**

20 having been duly sworn by Attorney V.Iacopino

21 was examined and testified as follows:

22 **DIRECT EXAMINATION BY ATTORNEY WAGELING:**

23 Q Mr. Stulgis, if you could state your full name for the  
24 record, provide information about your employment and

1           then if we could move for you to describe in some  
2           general terms what your background and education is.

3       A     My name is Richard Stulgis, I'm a vice president of  
4           Haley and Aldridge. My educational background is I have  
5           a master's degree in civil engineering from Purdue  
6           University. I've been a practicing geotechnical  
7           engineer for over 30 years. I've been involved in  
8           engineering projects both here domestically in the  
9           United States and overseas.

10      Q     I'd like, if we could, to review a variety of documents  
11           that have been submitted as exhibits. They all have the  
12           letter 'A' in front of them and I'd like to go through  
13           them with you and see if you could provide testimony to  
14           the Committee that you're familiar with them and that  
15           you have reviewed them in preparation for your  
16           testimony. And I'd like to start with what's been  
17           marked 27, which I believe to be your September 5, 2000  
18           pre-filed testimony on behalf of Haley and Aldridge.

19      A     That's correct.

20      Q     Would you agree with me that included in that is the  
21           report you submitted, the peer review report, that you  
22           submitted to my office, which was then appended to  
23           your written pre-filed testimony?

24      A     That's also correct.

1 Q Number 44, which I believe to be your supplemental pre-  
2 filed testimony on October 9, 2000.

3 A That's also correct.

4 Q Number 24, which is the Tennessee Gas Pipeline August --  
5 I'm sorry. I have a date on my outline that's kind of  
6 confusing me and I apologize. I'll get back to this one  
7 in a minute. Number 46, which is the response to the  
8 data requests put forth by Public Counsel to DES and the  
9 date is September 29, 2000.

10 A Yes, I reviewed that also.

11 Q Number 43, which is the PUC response, again, to the data  
12 request put forth by Public Counsel dated October 4,  
13 2000.

14 A Yes, I reviewed that document.

15 Q Number 62, which is the Tennessee Gas Pipeline October  
16 13 filing with the EFSEC Committee.

17 A Yes, I reviewed that also.

18 Q And specifically on the cover I note that it is  
19 responses to DES and PUC proposed draft conditions and  
20 their status report.

21 A That is correct.

22 Q And lastly, what should be in here but is not, but it's  
23 my understanding that and maybe I'm mistaken in my  
24 numbers, I think I might have gotten these numbers from

1 your proposed exhibit list and some of them might have  
2 changed, but the Tennessee Gas Pipeline filing of  
3 October 18, 2000, which I happen to have here.

4 A That's correct.

5 Q And I believe it to be the same -- I've seen it as the  
6 exhibit brought around but I'm sorry I'm mistaken on the  
7 exhibit number apparently. And again, I'll get back to  
8 that before your testimony is complete so that we have  
9 that in the record.

10 ATTORNEY ARNOLD: I believe that's  
11 Exhibit 71 on the final list. Is that what you --

12 Q Yes. If you could look over at the woman there.  
13 They're holding up Exhibit 71. Would you agree with me  
14 it's the same as the item I just held up and showed you?

15 A Yes, I would.

16 Q Thank you. Moving on in terms of the information that  
17 you had accessible to you and what you reviewed, would  
18 it be fair to say that you are familiar with the EFSEC  
19 filing on behalf of Tennessee Gas Pipeline, as well as  
20 the FERC filing that is currently before this Committee  
21 today?

22 A That is correct.

23 Q In addition to the information that you've reviewed,  
24 have you ever participated in, as a consultant, on

1           behalf of Counsel for the Public, on a similar project?

2       A     Yes.   That would be roughly several years ago in PNGTS-  
3       Maritimes pipeline application.

4                   ATTORNEY WAGELING:           And I bring that to  
5       the Committee's attention just in case there are  
6       questions that you might have that he could answer in  
7       comparison of this project as it relates to that  
8       project, because I know that has come up before.

9       Q     Did you fulfill a similar role in that project as to  
10      what you've come forward today to present for this  
11      Committee?

12      A     That's correct.

13      Q     I'd like firstly for you to provide an opinion to this  
14      Committee, in a general sense, as to the plan that's  
15      been submitted by Tennessee Gas, in a general overview  
16      of that. What your opinion is of it.

17      A     Our focus and my focus was to evaluate the proposed  
18      water body crossings, and in particular I focused on the  
19      larger crossings, the intermediate water body crossings.  
20      Those would be crossings that are greater than ten feet  
21      and less than 100 feet. And on this project there are  
22      roughly a handful or half a dozen, seven, such  
23      crossings. By way of comparison, for the Committee, the  
24      PNGTS-Maritimes project, similar focus, the scope of

1 that project involved major water body crossings  
2 somewhere on the order of 12 or so. They were several  
3 hundred feet in width, the largest crossing was several  
4 thousand feet in length. So again, during my review of  
5 the Applicant's application relative to water body  
6 crossings drew on my experience relative to the  
7 Maritimes submitted several years ago.

8 And again, the current project as proposed, by  
9 comparison, the water body crossings that the Applicant  
10 proposes to cross using the wet method are roughly  
11 seven. The width of these crossings are typically 25 to  
12 30 feet. Based on the nature of those crossings, based  
13 on the Applicant's proposed wet method approach for  
14 those crossings, based on my evaluation of the site  
15 conditions I found that the Applicant's proposed methods  
16 to be reasonable and in accordance with the standard of  
17 practice. In addition, the ECP obviously included  
18 controls relative to environmental protection during  
19 implementation of those methods for those crossings.

20 Having said that, there were two aspects that I  
21 felt were important and qualified my evaluation of those  
22 crossing methods. And they basically revolved around  
23 the nature of the backfill that would be used to  
24 backfill these wet trench evacuations from the point of

1 view of water quality turbidity. I made the  
2 recommendation that the Applicant basically use clean  
3 granular soils in the backfilling of those handful of  
4 wet water body crossings. And second of all, the  
5 uniqueness of the project where the proposed pipeline is  
6 going to be constructed adjacent to the existing 12 inch  
7 line, the concern that I had was that in these wet water  
8 body crossings, essentially excavating in the blind so  
9 to speak, that the Applicant should put forth a plan to  
10 essentially indicate how the Applicant would protect the  
11 existing 12 inch line and monitor the effect of the  
12 proposed wet construction of the 20 inch line on that  
13 existing line so that if, in fact, the existing line was  
14 being impacted that measures could be taken to  
15 essentially protect that line.

16 So having essentially made the general conclusion  
17 that the proposed wet water body crossings were  
18 reasonable and in conformance with practice, again,  
19 qualified those crossing methods to the considerations  
20 I've just indicated.

21 Q If I could back up, I have compared Exhibit 24 and I was  
22 confused simply by some of the dates that were present  
23 on the cover but I failed to note the last one. It is  
24 exactly what I thought it was originally and I apologize

1 for the confusion. Did you also have an opportunity to  
2 review Exhibit 24, which is the information submitted  
3 from Tennessee Gas in August 2000?

4 A Yes, I did.

5 Q If we could go back just for the foundation, which I  
6 feel now is appropriate for me to now ask you, based  
7 upon your review of particularly items that were marked  
8 27 and 44, which we have pre-filed testimony, were they  
9 true and accurate at the time that they were filed by  
10 you?

11 A That's correct.

12 Q And do they remain true and accurate today?

13 A Yes, they do.

14 Q Would you like to adopt the information contained within  
15 those filings as your testimony today?

16 A Yes, I would.

17 Q I'd like to ask you some follow up questions and ask  
18 that you further delineate your position on a couple of  
19 things, including, and I don't think you got into it  
20 particularly a few minutes ago. But when you were  
21 talking in your pre-filed testimony and earlier today  
22 about water body crossings, as I understand it you had  
23 discussed the test borings?

24 A That's correct.

1 Q I don't know whether or not you feel that you should go  
2 into it anymore but if you don't mind would you explain  
3 to the Committee why you thought it was essential in  
4 terms of the preparation for determining which water  
5 body crossings would be appropriate?

6 A Well, again, in my opinion, particularly with respect to  
7 the sixth and seventh crossings, the intermediate  
8 crossings that are proposed in the wet, in my opinion  
9 the standard of practice at this point in the process or  
10 prior to construction would be to conduct one test  
11 boring on each of the river banks at each of the  
12 crossings. The purpose being to identify the subsurface  
13 conditions, to allow the Applicant to take a proactive  
14 position by having identified those subsurface  
15 conditions, being then able to properly plan how the  
16 specifics of the crossings would be executed. For  
17 example, will bedrock be encountered? They then  
18 basically set off a chain of design decisions and  
19 construction decisions for the Applicant. Are there  
20 cobbles and boulders in the stream or the riverbanks?  
21 Are there soft soils? So again, my position in terms of  
22 the standard of practice would be that it would be  
23 prudent to essentially develop that information prior to  
24 construction so that particularly in view of the

1 existing 12 inch line, the Applicant could proactively  
2 take the proper steps in terms of implementing those  
3 crossings.

4 Q What about erosion control measures that have been  
5 suggested, both through the DES report and draft  
6 conditions as well as the responses by Tennessee Gas?

7 A Again, in my opinion, I think they're reasonable and  
8 they certainly conform to the standard of practice and  
9 we have no problem with them whatsoever.

10 Q There's been quite a bit of discussion on the turbidity  
11 issue today. Have you been present for all of that  
12 testimony?

13 A Yes, I have.

14 Q Do you wish to provide any opinion to this Committee as  
15 it relates to that issue?

16 A Only in terms of, again, the nature of the backfill that  
17 I would recommend in these wet trenching operations.  
18 Again, to minimize the turbidity problem, siltation, in  
19 my opinion the use of clean granular backfill would be  
20 prudent to use in its presence.

21 Q More specifically, in terms of the testing that was  
22 spoken of by Mr. Treddle, that involved the last project  
23 that you happened to be involved with and as I  
24 understand his testimony, he felt that it was rather

1           redundant. I don't know if you'd care to share your  
2           opinion with this Committee as it relates to the testing  
3           that was required in that --

4    A       I really have no opinion on that. That's beyond my area  
5           of expertise.

6    Q       Another issue that, as I recall, came up during  
7           discussions relative to the trench operations in this  
8           project, is the protection of the 12 inch pipeline  
9           during excavation in the wet. Do you have any specific  
10          suggestions that you think should be implemented to  
11          ensure the integrity of that line?

12   A       Yes, I do. In my opinion, during the trenching  
13          operation and pipeline operation of the 20 inch line the  
14          existing 12 inch line should be monitored and a system  
15          of basically alignment of marker stakes in my opinion  
16          should be installed across the full water body crossing  
17          roughly five feet downstream from the existing 12 inch  
18          line. The Applicant has indicated in their filing that  
19          they proposed to essentially monitor the side walls of  
20          the trench excavation and if they indicate or observe  
21          movement in those side walls that that would trigger a  
22          response in terms of further protection of the 12 line.  
23          The problem is is that excavation is in the wet and in  
24          the blind and there's no way to really monitor visually

1 the side wall of the excavation. By installing these  
2 alignment or marker stakes downstream from the pipe and  
3 upstream from the 20 inch pipe trench excavation and  
4 monitoring those alignment stakes, if there's any  
5 movement they would be the first precursor or indication  
6 that something is happening at the trench bottom or the  
7 river bottom and then the Applicant could take the  
8 appropriate additional protective measures relative to  
9 the 12 inch pipeline.

10 Q Earlier on there was some discussion about geo-textile  
11 diapers. Is there anything that you could share with  
12 this Committee relative to your expertise or knowledge  
13 in the use of such a material in a project such as this?

14 A Well, the use of geo-textile materials in construction  
15 are a matter of routine course in most projects now for  
16 either filtration separation, protection reinforcement.  
17 The cost of these materials is relatively low. We're  
18 talking about cents per square yard relative to the  
19 materials. The materials, I was listening to Chairman  
20 Varney's comment earlier on the trampoline in the back  
21 yard. These materials are typically polyester or  
22 polypropylene materials. They're durable. They don't  
23 become brittle and they're relatively flexible. In my  
24 experience they're a common material that is used for

1 various purposes during construction. They're  
2 relatively expensive [sic] and they certainly maintain  
3 their flexibility.

4 Q Relatively expensive or inexpensive?

5 A Inexpensive. I'm sorry.

6 Q And do you think that it's an appropriate condition to  
7 be placing on Tennessee to require that they use them in  
8 this project?

9 A Well, to be honest with you I would defer to the  
10 regulatory agencies relative to that issue. I can  
11 understand both arguments and like I said, I would defer  
12 to the regulatory agencies in that issue.

13 Q I'm going to put you on the spot here, earlier on you  
14 had indicated that you thought that the crossings that  
15 have been suggested by Tennessee are reasonable based  
16 upon your experience and standards.

17 A Correct.

18 Q He's going to kill me here. Would you say the same for  
19 what DES is recommending? And what I mean by that is,  
20 is it unreasonable for DES to be suggesting to this  
21 Committee that all the crossings should be done in the  
22 dry?

23 A Is it unreasonable? I think that's the prerogative of  
24 the agency. Whether it's reasonable or not I'm not sure

1 I'm in a position to really address that. I can tell  
2 you that there are pros and cons of dry versus wet. If  
3 a dry crossing is executed properly with the appropriate  
4 controls it certainly will have less impact on the  
5 environment in terms of stream or river water quality.  
6 Having said that, the wet crossing, I agree with the  
7 Applicant from the point of view of minimizing the time  
8 that the crossing is open, it certainly is quicker. I  
9 think that if some of the controls that obviously are  
10 indicated in the ECP are implemented, I think if the  
11 backfilling of the trench material with clean material  
12 is executed as we're suggesting, again, a crossing of  
13 that nature can certainly be effected with a minimum  
14 impact on the environment.

15 Q There had been some discussion, and I'm not sure if it  
16 was on the record or off the record, with me at some  
17 point about some difficulties in the PNGTS project where  
18 a dry crossing had been required and eventually -- it  
19 was during the testimony. Eventually they allowed for  
20 the wet crossing. Can you provide any input to the  
21 Committee on issues such as that? And I guess basically  
22 what I mean is, are there times where because of the  
23 insistence of the state agency to do it in the dry they  
24 end up creating more problems, innocently enough but end

1 up creating more problems relative to the environment?

2 A I don't think you could link that to the insistence of  
3 the agency. Again, I think it's a matter of execution  
4 and how it's executed in the field. If appropriate  
5 construction techniques, if a knowledgeable experienced  
6 contractor is executing the work and the means and  
7 methods are appropriately adopted to the site condition  
8 then I don't see that.

9 Q Is there any other testimony that you would like to  
10 provide to this Committee at this time?

11 A No, there isn't.

12 Q Thank you. I have no further questions at this time.

13 CHAIR: Any questions from the  
14 Applicant?

15 ATTORNEY ARNOLD: Just a couple, if I  
16 may.

17 **CROSS-EXAMINATION BY ATTORNEY ARNOLD:**

18 Q Mr. Stulgis, you have testified and provided in your  
19 pre-filed testimony that you believe that the wet cross  
20 methods that have been proposed by the Applicant are  
21 reasonable and consistent with established methods and  
22 practices, correct?

23 A That's correct.

24 Q And that you believe the environmental construction plan

1           that was submitted is reasonable and appropriate as  
2           well?

3       A     That's correct.

4       Q     And if I understood your testimony correctly in  
5           reference to the PNGTS site and I believe our testimony  
6           related to a site in Plattsburg, New York, but it seemed  
7           to me that what you said there was that it was important  
8           to deal with these issues on a site by site basis and  
9           deal with the conditions as they exist --

10      A     I'm sorry. I was distracted.

11      Q     I'm sorry. The testimony that you were asked about in  
12           terms of PNGTS, and I was just clarifying that I believe  
13           our witnesses had testified about similar incidents in  
14           Plattsburg, New York, not PNGTS. But in any event, I  
15           believe or what seemed to be the gist of your testimony  
16           was that it makes sense to analyze the appropriate  
17           methodology in the field based upon the site conditions.  
18           Would that be correct?

19      A     That's correct. Prior to construction though.

20      Q     And in fact, that's exactly what the Applicant has  
21           proposed to do in this case, is it not?

22      A     In terms of?

23      Q     Dealing with the seven wet crossings by analyzing them  
24           and the site conditions at the time.

1 A That's correct.

2 Q And would it be true to say then that it's also your  
3 opinion that there would not be any undue adverse  
4 environmental impact as a result of the methods and the  
5 construction plan that's been proposed by the Applicant?

6 A Depending upon what the site specific -- you know, what  
7 the subsurface conditions are.

8 Q And if there was a determination at the seven sites  
9 where that's proposed that, in fact, the wet crossing  
10 method as proposed and particularly in the environmental  
11 construction plan is the most appropriate, then you  
12 would conclude there would be no undue environmental  
13 impacts?

14 A I would conclude that that approach is reasonable and in  
15 accordance with the standard of practice qualified by  
16 the recommendations that I've made relative to trench  
17 backfill and methods to monitor the behavior of the  
18 existing 12 inch line.

19 Q And in fact, the Applicant, throughout this proceeding  
20 has agreed to the backfill which you recommended at four  
21 out of the seven locations, correct?

22 A That's correct.

23 Q And also, Mr. Hamarich testified today that the  
24 Applicant would agree to the monitoring of the 12 inch

1 pipe as you've requested?

2 A That's correct.

3 Q So is it fair to say then that with your recommendations  
4 having been adopted and based upon your statement that  
5 the methods proposed are reasonable and I believe you  
6 also stated that there would be minimal impact on the  
7 environment, is it fair to say then that that means  
8 there would be no undue adverse impact on the  
9 environment?

10 A That's my opinion.

11 Q Thank you.

12 ATTORNEY WAGELING: Mr. Chairman, if I  
13 could just ask one follow up question, just to clarify  
14 for the record on one issue?

15 CHAIR: Clarification only.

16 **REDIRECT EXAMINATION BY ATTORNEY WAGELING:**

17 Q You just indicated that for four of the seven wet  
18 crossings the trench backfill requirement or suggestion,  
19 recommendation if you will, will be implemented. Could  
20 you explain to the Committee why, for the remaining  
21 three, you don't think that that's a recommendation that  
22 should be implemented?

23 A Well, I think it depends upon the conditions during  
24 construction. The Applicant is proposing the push/pull

1           technique, which I think is appropriate assuming that  
2           the conditions at the time of construction are basically  
3           a wet saturated ground surface. So on that basis that's  
4           my opinion.

5       Q     Would it be your understanding, however, that if at the  
6           time they go out to the site there's a determination  
7           made, again, because of those specific conditions, that  
8           a push/pull isn't conducted and instead a trench is  
9           going to be dug, that they will be implementing the  
10          backfill as we've already agreed to in the other four  
11          sites?

12       A     That's my understanding.

13                   ATTORNEY WAGELING:           And if we're unclear  
14           on that, in terms of the Applicant, if you could state  
15           into the record that you disagree with that position.

16                   CHAIR:                           LNC?

17                   ATTORNEY EDWARDS:           I'm pleased to  
18           announce we have no questions.

19                   CHAIR:                           Thank you. Members of  
20           the Committee, questions? Michael?

21                   MR. CANNATA:           I don't want to be  
22           skunked, Mr. Chairman.

23       **EXAMINATION BY COMMISSIONER CANNATA:**

24       Q     There was just one question. You stated that you were

1            requesting that the 12 inch pipe be staked five feet  
2            downstream?

3        A        Correct.

4        Q        Does that assume that the location of the 20 inch is  
5            always on the downstream side?

6        A        That's my assumption.     If it's -- yes, that's my  
7            assumption.

8        Q        Now if it's on the upstream side, would you change your  
9            recommendation?

10      A        That's correct.    Yes.

11      Q        You would.

12      A        We would want the alignment marker stakes --

13      Q        On the side of the pipe --

14      A        -- on the side of the pipe closest to --

15      Q        -- where the 20 inch was.

16      A        Correct.

17      Q        Okay.    And just as a follow up question, you had as a  
18            distance five feet from the 12 inch pipe.

19      A        Correct.

20      Q        Which my understanding would leave a construction zone  
21            of ten or so feet.    Is five feet enough protection?    Why  
22            didn't you pick, say, ten feet away to give a quicker  
23            indication of erosion towards the 12 inch pipe?

24      A        Well, in my opinion that five foot buffer zone is enough

1 of an early indicator if the indicator or marker stakes  
2 begin to essentially move, for the Applicant to initiate  
3 appropriate remedial measures. You don't want it too  
4 far away and you don't want it too close. The further  
5 away and closer to the trench you're observing movement  
6 of the trench side walls but it's still far enough away  
7 from the pipe that it's not a consideration. So you  
8 want to strike a balance and get those marker stakes a  
9 little closer to the 12 inch pipe.

10 Q To provide protection but still no false figures, I  
11 guess is your testimony?

12 A Right.

13 **EXAMINATION BY CHAIR:**

14 Q Does it also relate to the depth?

15 A The depth of the trench?

16 Q Yes.

17 A My assumptions are that the --

18 Q In terms of setting the five foot cushion.

19 A I would assume that the trench depth at all the  
20 crossings basically is going to be the same in terms of  
21 the --

22 Q Right but -- understood. You were saying what factors  
23 led to the five foot and I was saying that one of the  
24 factors would likely be the depth that they've indicated

1 --

2 A Correct.

3 Q Okay. Thanks.

4 MR. CANNATA: No further questions.

5 CHAIR: Any other questions?

6 Michael.

7 **EXAMINATION BY ATTORNEY M. IACOPINO:**

8 Q I got a little bit confused. You indicated during your  
9 direct testimony with respect to erosion control  
10 measures.

11 A Yes.

12 Q You indicated that you thought that what was proposed  
13 was reasonable.

14 A Yes, I did. For the intermediate wet water body  
15 crossings.

16 Q Whose proposal, from the DES or the Applicant's  
17 proposal?

18 A My examination of the ECP.

19 Q Are you aware that there remains a dispute regarding  
20 erosion controls between the DES conditions and what the  
21 Applicant is intending to do? Specifically with respect  
22 to siltation, erosion and turbidity controls being in  
23 place prior to construction. You reviewed that at  
24 Exhibit 62, which is the DES conditions and the

1 responses thereto from the Applicant.

2 A I'd have to refresh my memory.

3 ATTORNEY WAGELING: Do you have a page?

4 ATTORNEY M. IACOPINO: Page 14. I think it's  
5 the October 13<sup>th</sup> filing.

6 ATTORNEY WAGELING: If I could have a  
7 minute. And you said the 13<sup>th</sup>?

8 ATTORNEY M. IACOPINO: Page 14. Number 10.

9 A Okay. Your question is?

10 Q You reviewed that here.

11 A Yes.

12 Q Have you reviewed that before --

13 A Yes, I have.

14 Q Is that within your area of expertise?

15 A Generally, sure.

16 Q As I understand it condition number 10 in the draft  
17 dredge and fill permit required that those controls,  
18 siltation, erosion and turbidity, be in place prior to  
19 construction and that the Applicant has objected to that  
20 for various reasons listed in that response that  
21 generally have to do with construction issues and they  
22 recommend a compromise to the condition. What is your  
23 opinion with respect to whether those controls should be  
24 in place prior to construction or whether the response

1 from the Applicant is the appropriate way to deal with  
2 that issue?

3 A Well, I think just from a matter of practicality and  
4 understanding the construction aspects of any project,  
5 particularly a linear project such as this pipeline,  
6 that to be honest with you, I find the Applicant's  
7 response reasonable in terms of their suggestion. I  
8 think that as they suggest here that a lot this can be  
9 coordinated in the field prior to the time of  
10 construction and prioritized in terms of where it can be  
11 implemented prior to construction and where it makes  
12 sense to essentially wait until some clearing takes  
13 place. So I would basically defer, from a construction  
14 standpoint, to the practicality of what they're  
15 suggesting here. And balancing it by the fact that my  
16 opinion is I don't believe it's going to create severe  
17 negative impacts to the environment, that's my opinion.

18 Q There was also an issue about -- did you only review  
19 crossings that were greater than ten feet wide?

20 A That's correct.

21 Q I have no further questions.

22 CHAIR: Thank you. Any other  
23 questions from the Committee? Yes.

24 ATTORNEY WAGELING: Mr. Chairman, I wasn't

1           sure if the Applicant had any response to my last  
2           comment prior to the Committee asking other questions of  
3           Mr. Stulgis. If they did have a response that was  
4           different from my comment I wouldn't mind having that on  
5           the record.

6                   CHAIR:                                 Sure.

7                   ATTORNEY ARNOLD:                   Can I just allow Mr.  
8           Auriemma to address that and clarify it?

9                   CHAIR:                                 Sure.

10                  MR. AURIEMMA:                    I believe you asked  
11           the question with respect to the three out of the seven  
12           wet crossings.

13                  ATTORNEY WAGELING:                The three that are  
14           remaining, yes.

15                  MR. AURIEMMA:                    Correct. As was  
16           stated by Mr. Stulgis, the three are in the areas of  
17           what we call the push/pull wetland technique. And I did  
18           state that hydrologic conditions had to be there and be  
19           proper for us to conduct that construction method. If,  
20           for some reason they're not, we will end up doing those  
21           crossings in the dry because it will -- the conditions  
22           of the ground will not be as saturated, it will allow us  
23           to use different techniques. Conducting that in the  
24           dry, I think that negates the purpose of the backfill.

1                   ATTORNEY WAGELING:                   Thank you. I'm sorry,  
2                   I guess I should have brought it to the other spectrum  
3                   also but again, just so the record is clear, if for  
4                   whatever reason we have monsoon season here prior to the  
5                   review of that particular wetland site, and there's a  
6                   decision made to trench through that site, for whatever  
7                   reason, will you all agree that you're going to be using  
8                   the bank run as has been discussed in the other four?

9                   MR. AURIEMMA:                   Correct. In the four  
10                  of the seven.

11                  ATTORNEY WAGELING:                  Thank you.

12                  CHAIR:                            One other matter  
13                  relating to this on the environmental side is that we  
14                  heard earlier that there's not yet been a response from  
15                  the Department of Environmental Services Water Division  
16                  staff on the Applicant's response. And so I would ask  
17                  that the Water Division of DES respond within the next  
18                  ten days to the written comments that were received from  
19                  the Applicant.

20                  MR. NYLANDER:                  That's fine, Mr.  
21                  Chairman.

22                  ATTORNEY ARNOLD:                  Mr. Chairman, before  
23                  we break, I'd hate to go back here again but there's  
24                  some confusion among everyone that's listening to this

1 discussion and I want to make sure that we're clear on  
2 the record about what the discussion is between Public  
3 Counsel and Tennessee.

4 CHAIR: Sure.

5 ATTORNEY ARNOLD: So I guess Mr.  
6 Auriemma, if I could ask you once again, just to make  
7 sure we got this right, to confirm what it is Tennessee  
8 is willing to do in terms of the crossings where  
9 backfill will be installed as recommended or not.

10 MR. AURIEMMA: Okay. I apologize for  
11 the confusion. After three days you can imagine that  
12 this would happen. What I believe we've agreed to, what  
13 I'm to understand we've agreed to is the four out of the  
14 seven wet crossings, the backfilling of the granular  
15 material in the full depth of the trench. The other  
16 three, as mandated by that wetland technique, if that  
17 wetland technique is applied will not be backfilled in  
18 that manner. However, if we switch the technique to  
19 where the crossing can be conducted in the dry, it  
20 negates the backfilling issue because he does not have  
21 issue with respect to the backfilling of the dry  
22 crossing method.

23 ATTORNEY WAGELING: That is correct.

24 CHAIR: Thank you. Are there

1 any other witnesses from Public Counsel?

2 ATTORNEY WAGELING: I have no other  
3 witnesses and with the Committee's permission, unless  
4 you would like to stay for pizza with us all, I'd like  
5 to ask that Mr. Stulgis be excused.

6 CHAIR: Great. Thank you.  
7 Thanks for joining us. This might be a good point to  
8 take a ten minute break. Since we didn't have an  
9 afternoon break I thought that we'd might take a ten  
10 minute break and then we'll start with the LNC  
11 witnesses.

12 (Off the record for break)

13 CHAIR: For the record, our  
14 agenda is presentation of witnesses by the Town of  
15 Londonderry but they still do not seem to be here so  
16 we'll move on to a presentation by the Londonderry  
17 Neighborhood Coalition.

18 ATTORNEY M. IACOPINO: Mr. Chairman, with  
19 respect to the Town, I'd also like to point out, in  
20 addition to what I said before, that they have never  
21 filed a motion to continue or in any way sought a  
22 continuance of this matter on the record.

23 CHAIR: Okay. Thank you.

24 ATTORNEY ANDREWS: What we're going to

1 do, Chairman Varney, is, at least propose to do is one  
2 panel. We're going to have five people on one panel.  
3 We'll introduce all five people and then just ask some  
4 general questions from all five people and that will be  
5 the only panel that we'll put on.

6 ATTORNEY ROCHWARG: Just so it's clear,  
7 there have been several people from the Coalition,  
8 members of the Coalition that have been here the entire  
9 time. However some of them do have family obligations  
10 that they had to attend to do so what they did is, there  
11 is a select group remaining and they felt as though  
12 their interests could adequately be represented by those  
13 five people. But they didn't want the Committee to  
14 believe that they were no longer interested in having  
15 the Committee hear what their position was with regard  
16 to certain concerns.

17 MR. CANNATA: Mr. Chairman, could  
18 those people be identified so the record is clear on  
19 who's who?

20 ATTORNEY ROCHWARG: Sure. When I call up  
21 the Coalition members then it will be easier to do it  
22 that way then I can let you know --

23 MR. CANNATA: That would be fine.  
24 Just so long as the record is clear.

1                   ATTORNEY ROCHWARG:            Thank you for the  
2                   suggestion.    Would it be possible to have five chairs  
3                   maybe right in this area?   That would be great.

4                                   **SWEARING IN:**

5                   **KENNETH BARTON, VALERIE MAZZOLA, COLLETTE GABBIDON,**

6                                   **ROLAND GOUDREULT & JACQUIE KYLEBERG**

7                                   **BY ATTORNEY V. IACOPINO:**

8                   ATTORNEY ANDREWS:            Our first witness is  
9                   going to be Collette Gabbidon.   The other four witnesses  
10                  we have are Valerie Mazzola, Jacquie Kyleberg, Kenneth  
11                  Barton and Roland Goudreault.   That leaves the witnesses  
12                  who aren't here, which are Nikki Sosnick, Richard Evans,  
13                  Irene Goudreault, who is not going to testify, Vinnie  
14                  Samson, Richard Bielinski, Jr. and Denise Southmayd.

15                   **DIRECT EXAMINATION OF MS. GABBIDON BY ATTORNEY ANDREWS:**

16                  Q    Hello Collette.

17                  A    Hello.

18                  Q    Could you please state your name and spell your last  
19                  name for the record?

20                  A    Sure.   The first name is Collette.   The last name is G-  
21                  A-B-B-I-D-O-N.

22                  Q    Where do you live, Collette?

23                  A    I live in Londonderry.

24                  Q    How long have you lived there?

1 A Six years.

2 Q When did you become affiliated with the LNC?

3 A I formed the LNC in June of 1998.

4 Q Why did you become involved in the LNC?

5 A Initially because communication was very poor in the  
6 town of Londonderry between the citizens and elected  
7 officials and we wanted to do everything and anything  
8 possible to facilitate communication within the town  
9 itself.

10 Q How many members are currently involved with the LNC?

11 A We haven't done a recent census.

12 Q How long has the group been tracking the status of this  
13 pipeline project?

14 A From late June of 1998. Oh, the pipeline? Yes, late  
15 June of 1998.

16 Q Would you consider yourself to have been actively  
17 involved and up to date on the status of the pipeline?

18 A Yes, I would.

19 Q How about with respect to the AES power plant, were you  
20 also involved in tracking that?

21 A Yes. We consider them the same proposal.

22 Q I'd like to show you what was marked as Exhibit L-1.  
23 That's your direct pre-filed testimony. Do you  
24 recognize it?

1 A Yes, I do.

2 Q Is it true?

3 A Yes, it is.

4 Q Would you like to adopt it as part of your testimony  
5 here today?

6 A Yes, I would.

7 Q Is there anything you need to add or change to it?

8 A Yes.

9 Q What is that?

10 A To the testimony itself or just add overall?

11 Q Well, I'm going to ask you a few questions that you can  
12 elaborate on but first of all, is there anything you  
13 need to change to what you have submitted?

14 A Oh, no.

15 Q Let's get into some of your concerns on this project,  
16 Collette. Why don't you elaborate generally, if you  
17 will, on what your concerns are with respect to safety?

18 A Okay. Actually my concerns in regards to safety start  
19 with the regulation of a pipeline industry overall. If  
20 you remember the explosion in Carlsbad, New Mexico USA  
21 Today had an excellent editorial in which they spoke  
22 about the lack of regulation and the fact that the  
23 pipeline industry itself is very powerful. Because they  
24 are so powerful they've been able to hire lobbyists to

1 make sure that there is indeed limited regulation. So  
2 it was very interesting to hear them say that they're  
3 going above and beyond federal regulations when at the  
4 same time they're lobbying to limit regulations.

5 The other thing I wanted to talk about in regards  
6 to safety -- we've heard a lot of testimony here today  
7 about the fact that this pipeline went in 50 years ago.  
8 And the inference seems to be that Tennessee Gas has a  
9 right to do whatever they want with the pipeline because  
10 it's been there for 50 years. When I think back to  
11 where our country was 50 years ago, I think we've  
12 learned a lot about safety since that time. I mean, 50  
13 years ago we painted our homes with lead paint. 50  
14 years ago we didn't believe in seat belts, we didn't  
15 believe in airbags. 50 years ago people weren't  
16 questioning whether or not they should smoke. And the  
17 question is not whether or not there should be a  
18 pipeline there, but the question is what type of  
19 activity should take place around that pipeline given  
20 the fact that we have five schools. When I say five  
21 schools we only have six schools in the entire town of  
22 Londonderry. So you say because this went in 50 years  
23 ago and people could not perceive there would be a power  
24 plant and there would need to be an upgrade of the

1 pipeline that the rights of the town and the rights of  
2 the parents of the children in the schools do not  
3 matter? I don't agree with that at all.

4 Q Collette, one thing I forgot to ask you is if you have  
5 any family in Londonderry.

6 A Yes, I do.

7 Q What does that comprise of?

8 A I have two daughters and a husband.

9 Q Are your daughters in school?

10 A Yes. My youngest daughter is in elementary school and  
11 my oldest daughter is in the middle school.

12 Q Are they attending the schools about which you just  
13 referred to?

14 A My oldest daughter attends the middle school.

15 Q And you have safety concerns for their well being as  
16 well because they're attending the schools?

17 A Oh, absolutely.

18 Q What other concerns might you have, Collette, about  
19 environmental issues?

20 A Well, environmental issues, one of the things that we're  
21 looking at now in Londonderry is the fact that we have  
22 a growing population and we have a problem with our  
23 wetlands. And there was a wetlands ordinance that was  
24 proposed and I agreed with most of the residents in the

1 town that it was too restrictive upon property owners  
2 but I also agreed with the Conservation Commission that  
3 we need to do something, that the majority of people in  
4 our town rely upon well water. And as you know, the  
5 pipeline goes through wetlands, so I'm very concerned  
6 about this dirtying the wetlands and what are going to  
7 be the long term ramifications to those of us who rely  
8 upon well water.

9 Q What considerations, Collette, would you ask that the  
10 Committee take into account in deciding whether to grant  
11 the Applicant's certificate for this 20 inch pipeline?

12 A I actually have a few considerations. One of the  
13 concerns that I have is that we've been talking, the  
14 LNC, about this pipeline for two and a half years. I  
15 recently went through all of the literature that came  
16 out when they were proposing the power plant and either  
17 the pipeline issue was not addressed at all or on this  
18 document they actually stated that they would  
19 interconnect with the existing pipeline. On our web  
20 site we were so concerned that there was a sense of  
21 denial on the part of the company that proposed the  
22 power plant that the pipeline would have to be updated  
23 that when we talked about we called it "The Big Secret".  
24 And it wasn't until the power plant was approved that

1 the citizens in the town were told, "Guess what? The  
2 Londonderry Neighborhood Coalition was right. There is  
3 going to be a pipeline upgrade."

4 So I don't think the town was notified in a timely  
5 manner. I don't think the town has been aware of this.  
6 And I think at this point, at this late date, to say  
7 that the town should have known is unfair to the town  
8 itself. I mean, there's no way as a town we could  
9 perceive that there would be a pipeline upgrade. Not  
10 that there is a pipeline currently, but at a time when  
11 they say that most accidents occur during construction  
12 on or around a pipeline, you're putting the children in  
13 our school district in unnecessary danger.

14 Q Do you happen to have any particular recommendations in  
15 mind that you would ask the Committee to consider in  
16 granting the certificate?

17 A Yes. I would like the Committee to consider whether or  
18 not the pipeline upgrade could be moved away from the  
19 school systems. I don't think that's unreasonable. I  
20 don't think pipeline explosions are as uncommon as they  
21 have been stated. The Office of Pipeline Safety and  
22 their recent report indicated there was 1,954 incidents  
23 in distribution systems and 1,162 incidents in  
24 transmission systems. That's enough to be concerned

1 about five schools.

2 Q Did you hear the testimony earlier, Collette, about the  
3 discussions surrounding the various classes of pipe,  
4 particularly the classes of pipe near the schools?

5 A Yes, I did.

6 Q Do you recall, I think it was Chairman Varney proposing  
7 the question as to whether or not Tennessee would  
8 consider Class 4 pipe near the schools if the town were  
9 to pay for it?

10 A No, I didn't hear that.

11 Q You didn't hear that?

12 A No. I don't think the town should have to pay for it  
13 though.

14 Q Let me ask you this, would you support an upgrade of the  
15 pipe class near the schools?

16 A Oh, absolutely.

17 Q Why is that?

18 A Well, because when you're weighing the rights of a  
19 private corporation against the rights of the citizens  
20 of the town in an upgrade that would not be necessary  
21 unless another private corporation needed to build a  
22 facility to make a profit. I think, first and foremost,  
23 the children should be protected.

24 Q If you were told by the company that they were putting

1 in Class 4 pipe near the schools, as a citizen of  
2 Londonderry, would that make you feel safer?

3 A It would not [sic] make me feel safe if they put in the  
4 Class 4 pipelines and also redirected the pipeline away  
5 from the schools.

6 Q Do you have anything else that you'd like to add to what  
7 you've said so far?

8 A If you give me just a second.

9 Q Take your time.

10 A Just very briefly, I wanted to discuss -- there's been  
11 some discussion on the town of Londonderry not moving  
12 quickly enough to address pipeline safety issues and  
13 also the fact that the town of Londonderry had changed  
14 its attorneys. Londonderry Neighborhood Coalition has  
15 been asking the school board for over two years to look  
16 at this issue, to be ready for this issue. The problem  
17 was that the chairman of the school board was vice  
18 president of AES and he told us in no uncertain terms  
19 that absolutely he wasn't going to do anything about  
20 this issue. And it wasn't until he withdrew from being  
21 the chairman of the school board and now has withdrawn  
22 from the school board itself that we were able to even  
23 get the school board to act on this issue. So there was  
24 a direct conflict of interest and it was not on the part

1 of the town. It was because you had someone from one  
2 facility who was going to make a profit not wanting to  
3 do anything to act on behalf of the residents of the  
4 town.

5 Q Would you support the Committee's decision to impose  
6 standards greater than the minimum federal standards  
7 that have been discussed throughout these hearings?

8 A Absolutely. I mean, the General Accounting Office has  
9 said that the Office of Pipeline Safety has not enforced  
10 22 of 49 safety regulations. So when we talk about  
11 federal standards being adequate we should actually look  
12 at if they're even enforcing the standards that they're  
13 supposed to. I don't think you can take credit for  
14 saying, "We're going above federal standards" as I said,  
15 at the same time you're making sure that the federal  
16 standards are very limited.

17 Q Is that all you have to say to the Committee today,  
18 Collette?

19 A Yes.

20 Q Okay, thank you.

21 A You're welcome.

22 ATTORNEY ROCHWARG: The next witness would  
23 be Jacqui Kyleberg.

24 ATTORNEY M. IACOPINO: Is it the intent to

1 open up the panel to questions?

2 ATTORNEY ROCHWARG: Oh, I'm sorry. I  
3 apologize.

4 ATTORNEY M. IACOPINO: Is that intent?  
5 However you want to present your case is fine.

6 ATTORNEY ROCHWARG: I was going to follow  
7 along with the traditional procedure of having all the  
8 witnesses testify and then -- if that's okay with the  
9 Committee.

10 CHAIR: Yes.

11 **DIRECT EXAMINATION OF MS. KYLEBERG BY ATTORNEY ROCHWARG:**

12 Q Good evening.

13 A Hi.

14 Q Could you please introduce yourself to the members of  
15 the Committee?

16 A Yes. My name is Jacquie Kyleberg. I've never done  
17 anything like this so please bear with me. I'm very  
18 concerned about what's going on in Londonderry. I'm a  
19 realtor in Londonderry and I was a director of nurses  
20 for several years. I have two boys that have graduated  
21 from Londonderry High School. I have several different  
22 concerns that before you make a decision I would hope  
23 that you would really think and pray about what's the  
24 right thing to do.

1 Q Could you tell the Committee where you're living  
2 currently?

3 A I have a house in Londonderry on Wilshire Drive. I am  
4 an abutter.

5 Q How long have you lived at that residence?

6 A Seven years.

7 Q Are you a member of the Londonderry Neighborhood  
8 Coalition?

9 A Yes. I only joined in the last couple months simply  
10 because I became very concerned as to what was going on  
11 with the pipeline and AES. And I couldn't find any  
12 information anywhere else. No one that I knew in the  
13 town, in the church, in real estate, wherever, knew what  
14 was going on as far as meetings or what was being done.  
15 So luckily one of the people in the Coalition I had sold  
16 a house to and he was able to connect me with Collette.  
17 Other than that I still wouldn't know what was going on.  
18 And interestingly enough when I go to different meetings  
19 and I talk to people about what's happening and what's  
20 going to happen they're all mortified in the town.

21 Q I'd like to show you now what's been previously marked  
22 as Exhibit L-2 for identification only. Can you  
23 identify that exhibit?

24 A Yes. And I'd like to talk about each piece there.

1 Q If I may, before you do that, have you had an  
2 opportunity to review Exhibit L-2?

3 A Yes.

4 Q And it is true and accurate?

5 A Yes.

6 Q Was it true and accurate at the point in time when you  
7 submitted it as your pre-filed testimony in this matter?

8 A Yes.

9 Q Does it remain true and accurate today?

10 A Yes.

11 Q Would you like to adopt that as your testimony here  
12 today?

13 A Yes.

14 Q What I'd like to do now is follow up a little bit  
15 further and discuss some of your additional concerns.  
16 Why don't you please elaborate, if you could, for the  
17 Committee some of your concerns regarding safety in  
18 connection with the pipeline.

19 A Regarding safety, in the different reports I've read I'm  
20 very concerned with the safety during construction. I  
21 live in this house. One of my sons lives there. We  
22 have several pets. Where are we going to go during  
23 construction? It's been told to me that that is one of  
24 the worst times for accidents during construction and

1 I'm petrified. I had no idea where are we going to go.  
2 In regards to Tennessee Gas, I've lived there for seven  
3 years and I never even knew there was a pipeline there.  
4 I had no idea. And yet Tennessee Gas says, "We let you  
5 know every year what to do in case there is a problem."  
6 I didn't know that nor did any of my neighbors know that  
7 either.

8 Q Can you describe to the Committee the proximity of the  
9 pipeline to your residence?

10 A It's in the back yard and I'm going to show you some  
11 pictures of the back yard and what they've proposed to  
12 tear down.

13 ATTORNEY ROCHWARG: Why don't we mark the  
14 photographs, if we can do that. Do you have any  
15 objection to admitting those into evidence?

16 ATTORNEY SMITH: Can I see those?

17 A No, but I want to kind of show them a little bit if I  
18 could.

19 Q You'll be able to do that, we just need to mark them for  
20 identification and if you could hand them to the  
21 attorneys next to you.

22 A Sorry. Okay. According to a paper that I received from  
23 Tennessee Gas, the Londonderry 20 inch replacement  
24 project, they had a corridor outlined that they are

1 going to be using for construction.

2 Q Could you describe to the Committee and for the purposes  
3 of the record what document you're looking at right now?

4 A The Londonderry 20 Inch Replacement Project  
5 Environmental Assessment dated August 2000.

6 Q Thank you. And what page are you referring to in your  
7 testimony?

8 A It's under a diagram labeled B-1.

9 MS. BROCKWAY: For the record that's  
10 the Federal Energy Regulatory Commission assessment?

11 ATTORNEY ROCHWARG: That is correct.

12 A Yes.

13 Q Please continue.

14 ATTORNEY SMITH: Excuse me a second.  
15 Would you like us to put markers on that or would you  
16 want to do that?

17 ATTORNEY ROCHWARG: If you have stickers  
18 that's fine. That would be terrific.

19 ATTORNEY SMITH: Why don't we do that.  
20 And you would like them marked how?

21 ATTORNEY ROCHWARG: Why don't we do them  
22 as L-2a, L-2b. Thank you.

23 CHAIR: And they're dated  
24 what?

1 A In the last two weeks these pictures were taken. But  
2 the point I'd like to bring up is the corridor that they  
3 have proposed here. So this line is the existing  
4 pipeline, ten feet away is the replacement pipeline.  
5 Then 50 feet away from that they want for construction  
6 with another 15 and 15 feet over here. So that's  
7 basically all the trees that I have in the back yard.

8 Now, to let you know something about the back  
9 yard, it abuts a marshland, which has been Mack's  
10 Apples.

11 Q Is that described better by you by looking at the  
12 photographs and showing to the Committee the  
13 photographs.

14 A Yes.

15 Q Okay.

16 A Hopefully we'll have the photographs back in a minute.  
17 But anyway, so have the treeline, a marsh line and then  
18 Mack's Apples. And obviously the marsh helps to  
19 irrigate the apple orchard. And this back portion of  
20 the land is very wet. I can't even mow it until the end  
21 of May, first of June. When you see the pictures you'll  
22 see the trees there. If those trees all come down,  
23 which according to this corridor, they are, I am going  
24 to have a very, very wet yard as well as my neighbors.

1 It's going to be very, very wet back there. I've talked  
2 with Tennessee Gas about this and they are not putting  
3 trees up there. They've told me they are going to seed  
4 it. So I am very worried about the water table and what  
5 that's going to do to this whole side of the street.

6 This is Exhibit L-2a of h. This is the back yard  
7 first thing in the morning. It kind of gives you a  
8 little perception, the colored leaves behind there.

9 ATTORNEY ROCHWARG: Mr. Chairman, may I  
10 bring that photograph to the Committee so they can  
11 review it while she's testifying.

12 ATTORNEY SMITH: Could we just wait one  
13 moment please?

14 ATTORNEY ROCHWARG: The photograph that  
15 we're currently distributing is Exhibit L-2a of g.

16 A Okay. Thank you. So the concern I have with cutting  
17 down these trees is twofold. It's not just the water  
18 table, it's also the wetlands. And let me tell you a  
19 little bit about the wetlands.

20 Q Can we distribute them or do you need to specifically  
21 describe --

22 A No, no. So the wetlands we started to talk about a  
23 little bit. Basically what's happening with that is the  
24 town of Londonderry, the Conservation Committee is

1 concerned with the wetlands because 83 percent of the  
2 people in the town get their water from wells. 83  
3 percent of the town's water is from wells so they're  
4 very concerned. And they're realizing they have to do  
5 something about this. Now apparently 92 percent of the  
6 communities in southern New Hampshire already have  
7 wetland buffer protection ordinances.

8 Q Do you know whether you have wetland buffer protection?

9 A Londonderry does not but we're working on it. So, in  
10 working on it, yes, we had several meetings. Here's a  
11 picture of the attendance at one of the meetings. There  
12 was many hundreds of people there at this meeting. One  
13 thing they had talked about was --

14 Q What are you referring to so that the record is clear?  
15 It's an article from which paper?

16 A This is an article from the *Derry News* dated September  
17 14, 2000.

18 Q Could you describe for the Committee, since they're  
19 looking at the photographs right now, what those  
20 photographs depict?

21 A Okay, those photographs are the back yard. You can see  
22 the grass, that's where the house is. And then all the  
23 trees in the back there, according to the numbers that  
24 we talked about on the environmental assessment here are

1 going to be cut down. And it's not just my land it's  
2 everybody along Wilshire Drive corridor that's going to  
3 be effected. And as I said, the water table's already  
4 very high there.

5 Q What would you like to see this Committee do or consider  
6 in terms of your concerns regarding the wetlands and  
7 your back yard?

8 A Well, let me finish the wetlands thing. The concern  
9 with the wetlands is obviously the wells but why are we  
10 worried about the wells? Well, -- and the wetlands?  
11 It's because they remove the bacteria from pets. The  
12 wetlands filter the runoff of rain and also all kinds of  
13 oil from asphalt. Apparently the Conservation Committee  
14 had another workshop October 11<sup>th</sup> and they're still  
15 working on this. What they had proposed originally was  
16 to create a buffer which would absorb some of these  
17 contaminants. And this buffer would be 100 feet buffer  
18 on named wetlands and perennial streams and a 50 foot  
19 buffer on unnamed wetlands. Well, this property that we  
20 are looking at here has named wetlands, that is a named  
21 wetland. It's Mack's and it's listed in this brochure  
22 here. And it also has a small lake behind there too.

23 Q What's the name of the wetland?

24 A I think it's Mack's. I believe it's Mack's. I'll look

1 in the book here.

2 Q And what's the lake?

3 A I'm not sure the name of the lake either but I can get  
4 back to you about that. So here, Londonderry has not  
5 had an opportunity to create this wetland buffer but we  
6 are destroying these wetlands with this pipeline. So  
7 now what's going to happen with our wells? Now we're  
8 going to have to expend a lot of money to put in town  
9 water. Millions of dollars to put in town water because  
10 of the destruction with the pipeline, this is one of the  
11 major wetlands in town. I think this is a really bad  
12 decision. It's a far reaching decision that's going to  
13 effect families for a long, long time.

14 Q Could you go back to my original question where I asked  
15 you if you could describe to the Committee what you  
16 would like to see them do with regard to the impact that  
17 the pipeline has on your back yard and to the wetlands.

18 A It's not just the back yard, it's the whole wetlands,  
19 it's all the neighbors that are there. I'd like to see  
20 them look at the alternative routes, which are listed in  
21 the book here, which apparently --

22 Q The book that you're referring to is the Environmental  
23 Assessment?

24 A Yes. Which we referred to before. There are

1 alternative routes. I mean, there's many concerns about  
2 the route of this pipeline, one being the schools.  
3 That's a very dramatic concern. Why have even one  
4 percent probability that there may be an explosion? Do  
5 you want your children there or your grandchildren? I  
6 mean, why do we even go that direction?

7 Q So if I understand your testimony, you'd like to see the  
8 Committee consider alternative routes and any upgrades  
9 to the safety of the pipeline, is that it?

10 A Yes. Alternative routes that are not affecting the  
11 wetlands and alternative routes that are concerned about  
12 the safety of these children.

13 Q Do you have any specific concerns regarding the health  
14 of the citizens of the town of Londonderry, including  
15 your family and friends?

16 A With regard to the pipeline?

17 Q That's correct. The pipeline and the related power  
18 plant.

19 A Well, of course we did talk about the pipeline in regard  
20 to the well, which everyone along Wilshire Drive there  
21 has wells within that proximity. All the houses are at  
22 least 25 years old. How are we going to go about  
23 proving that this is what contaminated these wells? I'm  
24 sure that's going to be no easy process.

1 Q Have you had conversations with anyone from Tennessee  
2 Gas regarding your wells and the proximity to the  
3 proposed pipeline?

4 A I have talked with them about this. They came to my  
5 house. I did not want them on the land. They said that  
6 they would be taking the trees down. I spoke with them  
7 at the Londonderry town meeting. They would be taking  
8 the trees down. They would put grass there. I spoke  
9 with one of my neighbors a few weeks ago with Collette,  
10 who was also there. Apparently Tennessee Gas had told  
11 them that everything was a done deal and asked them to  
12 sign the papers.

13 Q If someone from Tennessee Gas were to approach you to  
14 discuss with you what types of measures they might be  
15 willing to consider regarding your concerns, regarding  
16 environmental aspects, whether it's to the wetlands or  
17 to your wells, would you be willing to talk with them?

18 A Sure I would talk with them but I really think there  
19 needs to be some kind of direction as far as these  
20 wells. It's very costly to have a well dug. It's four  
21 and five thousand dollars to have a well dug. These  
22 people cannot afford that. And to try to prove that  
23 Tennessee Gas was the one that contaminated the wells,  
24 that's very difficult.

1 Q What other things would you like the Committee to  
2 consider before granting a certificate to the Applicant?

3 A I don't understand that.

4 Q Are there any additional conditions that you would like  
5 to see the Committee impose upon Tennessee Gas before  
6 they allow the application or certificate to proceed?

7 A No, just really, really re-looking at the location for  
8 the sake of these wetlands that are just so important to  
9 the town of Londonderry. And I'd also like to go back  
10 a step and reference that when the town voted on AES we  
11 voted on the AES plant. We did not vote on the other  
12 pieces of it that we're now finding out, which are the  
13 pipeline and high tension wires. We voted on the plant.  
14 And as everybody, I'm sure, knows the vote was very,  
15 very close. And suddenly this pipeline and all the  
16 issues about it sneak in. And so as I mentioned before,  
17 people in Londonderry just -- people in my bible study,  
18 that I work with, that I do sports with, people have no  
19 idea of what's going on.

20 Q So perhaps one of things that you'd like to encourage  
21 the Committee to require Tennessee to do is enhance  
22 public awareness?

23 A Enhance public awareness, yes.

24 Q Would you like to see the Committee impose standards

1 greater than those required under the federal standards,  
2 the minimum federal standards?

3 A Most certainly.

4 Q I'm going to ask you just one last question. Is there  
5 anything else that you would like to add to your  
6 testimony here this evening?

7 A Well, you see, on the testimony that the last paragraph  
8 on the first page is --

9 Q You're referring to your direct pre-filed testimony?

10 A Yes. Is in regard to notification of when the gas is  
11 turned on and when it's tested. I'm very concerned with  
12 that and I'm starting to ask people where I can stay  
13 because I can't live there when this is going on.  
14 During construction is one of the worst times. Where am  
15 I going to go with two big dogs and a cat?

16 Q You mentioned that you are in real estate. Is it  
17 commercial or residential real estate?

18 A I've been in residential real estate five years.

19 Q Do you have an opinion as to whether the proposed  
20 construction of the pipeline has impacted the values of  
21 the homes in the town of Londonderry?

22 A Most certainly. It has already impacted North  
23 Londonderry. It's very difficult to sell property  
24 there. It stays on the market for a long time. People

1 are very concerned with what's going on with AES. Also,  
2 in all honesty, with what's going on with the airport.  
3 The airport is expanding and there are several different  
4 phases of that expansion and AES is right next to it,  
5 which seems to me to be a double dose of a problem. And  
6 we have to have signed disclosures from everyone who  
7 buys property in North Londonderry, that they realize  
8 that they're buying property here. Otherwise you can be  
9 very liable for all kinds of legal problems down the  
10 road for not giving these disclosures.

11 Q Is there anything further that you'd like to add?

12 A I'm sure when this pipeline comes in in my back yard and  
13 these trees are gone and my back yard is a swamp and I  
14 don't want to live there that it's going to be very  
15 difficult to sell this house that I bought as a single  
16 parent and did all the work on this house with my two  
17 children and had hoped to leave it to them when I was  
18 gone because they have redone the entire inside and  
19 outside of the house. I can't leave them this house  
20 now.

21 Q Thank you, Ms. Kyleberg.

22 ATTORNEY ROCHWARG: The next witness will  
23 be Kenneth Barton.

24 ATTORNEY M. IACOPINO: Were the newspaper

1 articles marked as an exhibit? The ones that were  
2 referenced.

3 ATTORNEY ROCHWARG: No, they were not.

4 ATTORNEY M. IACOPINO: Did you intend to do  
5 that?

6 ATTORNEY ROCHWARG: I didn't receive them  
7 back so I apologize. If I can mark them for  
8 identification. I apologize, I don't believe that I did  
9 that. That would be Exhibit L-3. Thank you, Counsel.  
10 If I could circulate this to the Committee.

11 ATTORNEY ANDREWS: Our next witness is  
12 Kenneth Barton.

13 **DIRECT EXAMINATION OF MR. BARTON BY ATTORNEY ANDREWS:**

14 Q Hi Ken.

15 A Hello.

16 Q Would you state your name and spell your last name.

17 A Ken Barton, B-A-R-T-O-N.

18 Q Are you a member of the LNC, Ken?

19 A I am now, yes.

20 Q How long have you been?

21 A About a year. Actually, May 1999, I think, was when I  
22 joined.

23 Q Why did you become involved in the LNC?

24 A I basically testified here back, whenever you were here

1 last. It was in March, April of 1999. Whatever it was.  
2 I testified here as just an individual from the town and  
3 after the decision was rendered I realized that I didn't  
4 have much impact on the proceedings so I figured I'd  
5 join the group that might. So that's why I joined.

6 Q Do you live in Londonderry, Ken?

7 A I do.

8 Q How long have you been there?

9 A Since 1995.

10 Q Do you have family with you also?

11 A I do. A wife and a daughter.

12 Q How old is your daughter?

13 A She is six, former Little Miss Londonderry.

14 Q Congratulations.

15 A She's got my looks.

16 Q So she attends school in Londonderry, Ken?

17 A She does. Matthew Thornton Elementary School.

18 Q I'm going to show you what will be marked as L-7. This  
19 is your direct pre-filed testimony. Do you recognize  
20 it?

21 A Yes, I do.

22 Q Is it true and accurate?

23 A No, actually.

24 Q Okay. Before I ask you to correct it I'd like to ask

1           you if you'd like to adopt it the way it exists and then  
2           if you'd like to make changes to it.

3    A    Okay.  Then ask the question and I'll give you the right  
4           answer.

5    Q    Would you like to adopt your testimony?

6    A    Yes, I would.

7    Q    Are there any changes you'd like to make?

8    A    Yes, there are.

9    Q    What are they?

10   A    Just a couple of housekeeping notes.  At the time that  
11           I had written it I had confused a couple of specs.  One  
12           of them was the 1,500 children that I represented that  
13           were within 150 yards of the proposed pipeline, was  
14           really the 1,500 children that would be attending the  
15           middle school that's only 50 feet from the proposed  
16           pipeline.  And the following paragraph where I mentioned  
17           that there was a 16 year old eight inch pipeline, that's  
18           obviously a 50 year old eight inch pipeline or somewhere  
19           thereabouts.  So a couple of flawed specs.

20   Q    Explain to the Committee, if you would, what your  
21           concerns are about safety on this pipeline.

22   A    Where do I begin?  Basically I'll go with it as I stated  
23           in the pre-trial and then we'll --

24   Q    Why don't you begin with your concerns about the

1 location of the pipeline by the schools.

2 A Obviously there are three schools that I'm concerned  
3 about because they're the three that my daughter will go  
4 to. The rest of them -- But my daughter is going to  
5 Matthew Thornton followed by the middle school, back to  
6 the high school. So for the next 12 years she is going  
7 to be spending somewhere between six and eight hours a  
8 day on the premise, not to mention soccer and whatever  
9 other activities she does behind those buildings. The  
10 pipeline as it exists right now exists. As it's  
11 undisturbed one can make an argument about the 50 year  
12 old technology versus what's new but I feel that 20  
13 inches of pressurized gas going through that pipeline,  
14 if it ever did erupt would take out a considerable  
15 amount of people and that's my biggest fear.

16 Q And you've heard the testimony about the various classes  
17 of pipe?

18 A Yes, I did.

19 Q Do you have any thoughts on that?

20 A Oh, but I do. Oh, I have thoughts on that. I was  
21 taking notes and I was kind of -- the more I heard about  
22 why not to have that pipe the more I loved it. The  
23 concept of a Class 4 pipe that doesn't require but  
24 certainly we can service or test on a regular basis,

1           excites the living daylights out of me. Beautiful. If  
2           the only thing the Class 4 does for us is add a little  
3           more resistance against a puncture wound from a  
4           bulldozer or backhoe or some third party catastrophic  
5           event that we were talking about, hell, bring it on.  
6           Costs some money, I'm really not sympathetic to the cost  
7           of this project. I'm sympathetic to the cost of the end  
8           result of a catastrophe. So I appreciate the questions  
9           that were coming from all of you, including Chairman  
10          Varney, regarding why not upgrade? Where you get from  
11          the school zone all the way through to the end of the  
12          school zone and re-up it by North School and do it again  
13          in Pelham. For me, if it's the best, use it. Because  
14          basically they're going to invent something better three  
15          to ten years, 15 years out but that thing is going to be  
16          buried for the next millennium, if they have their way.

17                    So basically if it exists I would appreciate it if  
18                    you would ask them to use it.

19    Q    What other factors would you like the Committee to  
20           consider, Ken, in rendering its decision on Tennessee's  
21           application?

22    A    Well, a couple of things. I don't know who anymore  
23           because you all were asking great questions but somebody  
24           had asked a question about the redundancy of the shut

1 off valves. I love that question because I don't care  
2 if the existing technology has a shut off valve that's  
3 manual if it's downwind, down the road or at the  
4 beginning of the pipeline. And the you put another one  
5 within about 500 yards of the school that's automatic,  
6 fine. Then you have the opportunity to at least have an  
7 automatic response when it can do you the most good.  
8 That's one man's opinion. But it seems to me -- and  
9 also, whatever you do on the 20 inch pipeline, why not  
10 ask for an upgrade in some part to the 12 inch? I'm  
11 afraid that that 12 inch pipeline, because it's 16 years  
12 old, now becomes the weak link in the chain. To me, I  
13 look at it like a fuse, and the 20 inch is the bomb. If  
14 that 12 inch goes the 20 inch most certainly will  
15 follow. And if somebody says to me, "No, this is why  
16 this can't happen" I'd appreciate that. I've always  
17 asked, I asked at the last time I was here, make me feel  
18 better about this. Make me feel like we are protected.  
19 I don't feel that. I feel as though people are trying  
20 to deal with the minimum standards. Attorney Smith was  
21 very clear on a few occasions to make it -- or to let  
22 people know that their intention -- you can check and  
23 see if I'm wrong on this but that the intention of  
24 Tennessee Gas was to follow the guidelines set forth by

1 the national whoevers.

2 Q The Federal Regulatory --

3 A Them. Those guys. Now, then what are you all here for?

4 In other words, I'm resisting like hell the notion that

5 this is a moot point. I figure that this is New

6 Hampshire and you're here to protect New Hampshire

7 citizens. And this federal guidelines are behind. What

8 Collette said, she had better stats than I did, but I

9 was watching a program where they went hammer and tong

10 at the fact that there was 50 percent of the laws that

11 are on the books are not being enforced at this time.

12 I don't know if it is the intention of Tennessee Gas to

13 follow the laws that are on the books but it seems to me

14 that if they're not being enforced what good are they?

15 So my concerns are, you can levy all kinds of

16 additional burdens on Tennessee Gas but if you're not

17 going to enforce them or if there's no way to enforce

18 them then we're in trouble. I wouldn't know Class 4

19 pipe if I fell on it. I imagine that we have, in the

20 state of New Hampshire, somebody who would and that's

21 great. I hope that's true but I really believe that we

22 should use the best available technology. I just can't

23 stress that enough because you know and I know that it

24 only gets better so whatever is great now is mediocre

1 later. That's one of the things I would like to make  
2 sure that we stress.

3 Q So you would certainly support any conditions that the  
4 Committee might impose to elevate any of the standards  
5 above the minimum required by the federal guidelines?

6 A Oh yes.

7 Q In addition to the technical benefits that maybe --

8 A As long as they make sense.

9 Q In addition to any of the technical benefits that may be  
10 gained from these elevations of the minimum standards,  
11 would you agree that just simply makes you feel better  
12 as a resident that lives near the pipelines?

13 A There's no question about that. I mean, basically  
14 anybody who has been following this, and believe me, I  
15 have. Anybody who has been following this has a big  
16 decision to make, okay? Do we stay or do we go? I  
17 mean, we're really in a situation now because the  
18 airport is what it is and now we're piling a power plant  
19 on top of that. And now I have to decide whether or not  
20 I'm being derelict in my duties as a father to leave my  
21 daughter there for the next 12 years in a school system  
22 that abuts this pipeline. Basically, to me, that's --  
23 I just got lost. Let's bring it back. Where was I?

24 Q No problem, Ken.

1 A I lost you all? Can anybody tell me?

2 ATTORNEY M. IACOPINO: Being a father.

3 A That's it, that's my decision. That's what's facing us  
4 right now and I hate being in the position to do that.  
5 But certainly if we got these kinds of safety  
6 concessions, whether they move the line, whether they  
7 upgrade it to the point where you know, if somebody says  
8 that Class 3 is safe and Class 4 is safer, I don't care  
9 if they do Class 4. After looking at the records that  
10 we're not going to probably see, but the maintenance  
11 over the last 16 years on the 12 inch pipe, I'm not real  
12 worried about the redundancy of the maintenance on the  
13 Class 4 pipe because I don't see that we're going to  
14 have a tremendous amount of expense as Tennessee Gas  
15 going back through. Because if I heard things correctly  
16 we didn't have a whole lot of internal testing going on  
17 for 16 years. Did I hear that right? I'm alone. Am I  
18 wrong? There were no internal test performed on the 12  
19 inch pipe for the entire existence of the pipe.

20 ATTORNEY V. IACOPINO: I think you have this  
21 wrong. They ask the questions.

22 Q Okay, I do have another one for you. You were here for  
23 all three days of the hearing, Ken?

24 A Yes. All three.

1 Q Did you hear anything discussed during the course of  
2 these hearings that you feel the Committee should  
3 consider imposing as an additional standard, on any of  
4 the various issues?

5 A You know, I had so many. Bear with me. I was writing  
6 notes and crossing them out as people took my point  
7 away. I'm not focused on the ecological issues so much,  
8 not that I don't care but if I filled my head with that  
9 stuff I'd explode.

10 Q Did you hear the testimony on the additional testing and  
11 inspecting procedures that have been discussed?

12 A Yes. Frankly I started to lose track of what as -- you  
13 know what I mean? There was stuff that was proposed and  
14 then it was taken off the table and I don't remember  
15 what it was. But certainly it seems to me, I will say  
16 this, if Mr. Marini's proposal to pig the pipe on the  
17 first year or within the first three years, seemed like  
18 a concession that he was willing to make but not  
19 thrilled about. Hell, pig the pipe. We need a safe  
20 pipe and if what he says is true, if the thing reacts  
21 like a fire hose and stresses everything on the first  
22 fire, well heck, that's when to check it because that's  
23 when the problems certainly will surface.

24 Q So similar to the upgrade in the class of pipe, the

1           notion of additional testing similarly appeals to you as  
2           resident nearby?

3       A     Absolutely.    I don't want it to be -- I will take  
4           anything they'll give us in terms of a reasonable test.  
5           I'm not going to put them through paces just to create  
6           a hardship. That's not my position on this.    I do want  
7           it safe and the standards have to be set and I think  
8           they should be set high.    We're Class 4 pipe -- who is  
9           the gentleman, you were asking about the city, you know,  
10          where Class 4 pipe is for the city where high rises only  
11          or whatever.    It seems to me that Class 4 is the pipe  
12          you use when you absolutely can't afford a catastrophe.  
13          Boom, that's us. We want that.    That's what we need.  
14          You know what I mean?            I don't care about if we've  
15          gone this long without the regular testing.    I do want  
16          the baseline tests.    I think that's important and then  
17          after that I think that there should be some standards  
18          set by whoever governs it.    I don't even know who that  
19          is now.    Is it this group?    I'll govern it.    I'll tell  
20          you what we're testing annually.    We're going to pig  
21          this thing every year.    We're going to have Londonderry  
22          Pig Day and I'm going to be the damn mayor.

23       Q     I've got one more question for you.    How do you feel  
24           about community involvement in the emergency response

1 program?

2 A I think everybody should know what they're options are.  
3 Unfortunately I feel a little fatalistic about our odds  
4 once the problem rears its ugly head. But heck, if we  
5 can save some lives I think it should be there. If you  
6 understand some of the horror stories that are  
7 associated with these gas pipelines, one of the ones  
8 that I heard most recently, which is really horrifying,  
9 is the pipe was leaking and there was kind of a mist in  
10 the air. A policeman drove his cruiser into it -- I  
11 think this took place in Texas recently. Did anybody  
12 hear this? Anyway, a policeman drove his cruiser into  
13 the fog and somewhere in the ignition in his engine  
14 created the explosion that ripped across several  
15 neighborhoods. That's the kind of thing, you know.  
16 Now, to that end, recently we had a problem at the  
17 metering station, that I haven't heard come up in  
18 testimony here and the problem was that the scent, the  
19 odorizing agent --

20 ATTORNEY ROCHWARG: Mercapton?

21 A That, what she said. Whatever, the stench. According  
22 to them it was being added at the metering station. Now  
23 that only causes me a little concern because the  
24 metering station is well upline from the schools.

1 Q Well, just tell us what your concerns are about the  
2 odorant.

3 A If you're adding the odorant upline, that means there's  
4 no odorant going through the school area. Is that how  
5 you understand it?

6 Q Just tell us what you think.

7 A I'm trying to understand this. If the odorant is added  
8 upline then there's no odorant so that there's no early  
9 detection in the school area. Am I right here?

10 Q Tell us what you think.

11 A I'm telling you what I think.

12 Q This is your shot.

13 A I think it's a problem, that's all. And I think if  
14 that's a safety measure and it isn't added until it's  
15 well upline then I have a problem with it, that's all.

16 Q Okay, Ken, I'm just going to give you a chance to let  
17 the Committee know if there's any additional concerns  
18 you'd like them to address.

19 A Simply that I know it was discussed and I don't know it  
20 was resolved but the 12 inch line will probably undergo  
21 more stress than the construction of the 20 inch line  
22 during the construction of the 20 inch line. I think we  
23 can appreciate that it will undergo more stress than it  
24 currently does on any given day, let's assume. I could

1           be wrong. I know all the numbers that are being thrown  
2           around and that we're within safety guidelines and all  
3           that stuff but I have to assume that it is going to be,  
4           to some extent, disturbed by blasting and such. If we  
5           don't pig that line I think that's a mistake, that's  
6           all, because that line could cause a problem for the  
7           other lines. So to me, again, if a chain is as strong  
8           as its weakest link, it just seems to me that we would  
9           look to protect the 12 inch with the same fervor that  
10          we're trying to protect the 20. With that, I say do it.

11                   ATTORNEY ANDREWS:            Are you all set?

12                   MR. BARTON:                    Yes. Thank you.

13                   ATTORNEY ANDREWS:            Our next witness is  
14           Valerie Mazzola.

15           **EXAMINATION OF VALERIE MAZZOLA BY ATTORNEY ANDREWS:**

16           Q     Hi Valerie.

17           A     Hello.

18           Q     Would you state your name and spell your last name  
19           please?

20           A     Valerie Mazzola, M-A-Z-Z-O-L-A.

21           Q     And where do you live?

22           A     Londonderry.

23           Q     How long have you lived there, Valerie?

24           A     About five years.

1 Q And you're a member of the LNC?

2 A Yes, I am.

3 Q For how long?

4 A Just recently actually, I think it's been about two  
5 months.

6 Q Why did you become involved?

7 A Well, it's sort of a long story but I sat back for quite  
8 a while watching what was going on in town about the  
9 power plant and realized that there was a pipeline issue  
10 actually that nobody was addressing because they were  
11 all so focused on the power plant. So I actually went  
12 off on my own independent journey, so to speak, and I  
13 made some very early contacts with Tennessee Gas and I  
14 think Robert Haas can attest to that. He's in the room  
15 today. I talked with him several times. I also talked  
16 with FERC. I learned the process of how this whole thing  
17 happens, how pipelines are regulated and how they get  
18 their certificates. That was actually very helpful  
19 until AES came into the picture and made contact with  
20 them and then my contact with them changed. The tone of  
21 my contact, I should say.

22           Anyway, I approached the LNC early on, probably a  
23 year, year and a half ago and basically worked, I would  
24 say, alongside them and told them that this pipeline

1 issue was something that I was really going to be  
2 focusing on. And I approached them because they seemed  
3 to be the only group in town that was standing up and  
4 fighting and being vocal about some of the problems with  
5 this whole process. So just recently I did join the  
6 LNC officially. I was in a group prior to the election  
7 called the Citizens for Representative Government, which  
8 some LNC members were also in that group. But I did  
9 officially join just a couple of months ago to be  
10 involved in this process.

11 Q Do you have a family in Londonderry?

12 A Yes, I do.

13 Q Kids?

14 A Four children and a husband, yes.

15 Q How old are your children?

16 A I have a nine year old, a six year old and twin boys  
17 that are five.

18 Q And they attend the schools in Londonderry?

19 A I have two at the Matthew Thornton School and I have two  
20 that will be at the public kindergarten next year.

21 Q I'm going to show you what we've marked L-6, Valerie.  
22 This is your direct pre-filed testimony.

23 A Yes.

24 Q Do you recognize it?

1 A Yes, I do.

2 Q Is it true and accurate?

3 A Yes, it is.

4 Q Would you like to adopt it as part of today's testimony?

5 A Yes, I would.

6 Q Tell the Committee a little bit about what types of  
7 concerns you have regarding the safety of your children.

8 A Well, I have several. Not to be redundant, but I know  
9 we've been talking a lot about the fact that this does  
10 go close to the schools and I guess what I can say about  
11 that is if there is ever an accident it's a catastrophic  
12 accident. It's irreversible. If I were to lose my four  
13 children in a blast I would not be a pretty person to be  
14 around, let's put it that way.

15 I am concerned about the water contamination. I  
16 know the Middle School is listed as one of the water  
17 tables that's in danger of being contaminated in the  
18 Tennessee Gas application. I have other concerns. One  
19 is that I have yet to hear a commitment from Tennessee  
20 Gas that they will not construct this pipeline while  
21 school is in session. That's something I would like to  
22 see in writing that even if they have to change their  
23 construction schedule of the power plant or the  
24 pipeline, that they will not be working on this, nor

1 will they be testing it while our children are in those  
2 buildings. And that's a real concern of mine because I  
3 have learned through this process that there are a lot  
4 of promises made verbally and they're not put in writing  
5 and then when it comes right down to it the Company  
6 says, "Well, I'm sorry. That doesn't fit with our  
7 schedule so we're going to do what we need to do even  
8 though your kids are there." So that's another one of  
9 my concerns.

10 I have four children, they all have asthma, believe  
11 it or not. I have one that has it very badly and I've  
12 actually been up for the last two nights with no sleep  
13 because of this. He was born critically ill and he has  
14 come through that. However, just the construction alone  
15 of this pipeline is going to put a lot of pressure on  
16 him and us as a family because he will most likely be in  
17 the hospital a lot during this pipeline construction  
18 because of the disruption of dust and sand and blasting  
19 and everything else that will be going on.

20 Let's see --

21 Q Valerie, on one of the things you've already mentioned  
22 about the construction during school session. Is that  
23 then a condition that you would like to see the  
24 Commission impose as a condition to granting the

1 certificate?

2 A Yes, I would.

3 Q Okay, go ahead. What other conditions would you like to  
4 see them consider?

5 A Well, we've already talked about rerouting the pipeline  
6 away from the schools. I definitely support that. And  
7 I definitely support using the best technology available  
8 and I mean that that would be investigated and proven  
9 that it's the best technology. Because in my  
10 experience, with the power plant we've been told that  
11 they're using the best available technology and, in  
12 fact, I don't believe that that's true.

13 Q Valerie, do you have any particular concerns regarding  
14 the environment?

15 A Yes, I do. Again, I talked about the disruption of --  
16 the environmental concerns with the disruption of the  
17 ground, the dirt, the blasting. I also have a concern  
18 about the corridor itself and all the trees that are  
19 going to be cut down, all the animals that are going to  
20 be effected. We really don't know when we disrupt this  
21 land what the results are going to be for our  
22 environment, for our water, for -- I know I was talking  
23 with somebody recently that abuts the power plant site  
24 and she says she has skunks all over her yard because

1           they have no place to go. She has raccoons that are  
2           coming out in broad daylight and are petrified when her  
3           children are in the yard. And she's afraid they're  
4           going to get bitten by these animals. So that's another  
5           concern.

6                     There are dead animals all over the road already in  
7           Londonderry from the building that's going on with  
8           houses so I have no idea, when we cut this huge corridor  
9           up through the center of town, what the results of that  
10          are going to be. And you all know, when you're driving  
11          and an animal runs in front of you, that's a hazard in  
12          and of itself because it's just a reaction to try to  
13          turn the wheel.

14    Q    Valerie, how would you feel if you knew that the pipe to  
15          be installed near the schools was a class higher than  
16          that is required or even higher than that that Tennessee  
17          has proposed to install?

18    A    Well, like I said, I'd like them to use the best  
19          available pipeline, the safest, the best that they  
20          produce, the best that's out there that they could  
21          possibly purchase, regardless of the price.

22    Q    Do you have anything else to add to your testimony,  
23          Valerie?

24    A    Yes, I do. Just a couple of points of clarification.

1 I know I was here on Monday and I made a statement to  
2 public comment and I had no plans on being here today.  
3 I did get a call this morning saying how important it  
4 was for me to come and testify live because I have been  
5 sort of the person that's been dealing with the pipeline  
6 for the last year and a half. I've been here all day.  
7 It was a real struggle. It has been to juggle  
8 everything going on back in Londonderry. My husband  
9 does travel so this has been -- I had no plans on being  
10 here. However, the comments I made on Monday I do  
11 support and I wanted to make sure that I got those in.  
12 So that's one thing.

13 The other thing I just wanted to comment on, and I  
14 think Collette already touched on this, but some of the  
15 obstacle that have been put in our way through this  
16 whole process with the public. One, I had a real issue,  
17 I know that it was mentioned that there were public  
18 information meetings, or a meeting I guess, held in  
19 Londonderry, where supposedly it was open to the public.  
20 I just found it amazing that in a town of 22,000 or  
21 more, that nobody showed up, including the LNC. And  
22 that is simply because nobody knew about it. I know  
23 there was a notification because I investigated this in  
24 the *Union Leader*, thrown in the legal section that,

1 unless you read those on a regular basis, you would  
2 never know. And I happened to just notice that they  
3 didn't put it in the *Derry News* or the *Londonderry*  
4 *Times*, where many, many residents would have seen that  
5 and would have come out to speak and be heard. And  
6 again, I felt that that was a deliberate -- I feel that  
7 it was a deliberate way to keep us quiet.

8 And I know that Collette touched on the school  
9 board issue and I know that I actually had been the one  
10 at a couple of school board meetings to address that  
11 issue. You know, we have the chairperson of our school  
12 board working for AES and again, it just, I feel,  
13 impeded the process. I was being told time and time  
14 again that there was no conflict of interest and that  
15 personal lives were being separated from professional  
16 lives but I don't believe that that was the case. I  
17 thought that that was, again, something of concern to  
18 me.

19 Q Is that all, Valerie?

20 A Hold on. I guess I just have one other comment. And I  
21 think Ken might have already touched on this but I just  
22 had something here off the Internet about the explosion  
23 in New Mexico. That it's saying that the federal agency  
24 responsible for enforcing pipeline safety was falling

1 behind in its duties and the Office of Pipeline Safety  
2 has not enforced 22 of 49 safety regulations passed by  
3 Congress since 1988. And that, again, concerns me.

4 Q What is it that you're reading from, Valerie? Just to  
5 identify this for the record, it's from a web site  
6 printed from the Internet. The web site is  
7 www.abcnews.com. The title of the article is How Safe?  
8 Officials Concerned About Potential Danger of Aging  
9 Pipelines.

10 COMMISSIONER BROCKWAY: What was the web site  
11 again?

12 ATTORNEY ANDREWS: It's abcnews.com.  
13 I'll mark this for an exhibit also.

14 ATTORNEY M. IACOPINO: Is it dated?

15 ATTORNEY ANDREWS: Yes, it should be.  
16 It's 8/28/2000.

17 ATTORNEY M. IACOPINO: Thank you.

18 ATTORNEY ANDREWS: Oh, I'm sorry. That's  
19 when it was printed. The date of the article is August  
20 21. I'm going to mark this Exhibit L-6a.

21 ATTORNEY SMITH: May I see it?

22 ATTORNEY ANDREWS: Absolutely.

23 Q Is that all, Valerie?

24 A Yes, I believe so.

1 Q Okay, thank you very much.

2 A Thanks.

3 ATTORNEY ROCHWARG: The last witness this  
4 evening will be Roland Goudreault.

5 **EXAMINATION OF MR. GOUDREULT BY ATTORNEY ROCHWARG:**

6 Q Good evening, Mr. Goudreault. Would you please  
7 introduce yourself to the Committee?

8 A Yes, good evening. My name is Roland Goudreault. I  
9 live in Londonderry and I have been a resident along  
10 with my wife, in Londonderry for 13 years.

11 Q Where do you currently reside in Londonderry?

12 A Where do I reside? I reside on 158 Litchfield Road.

13 Q What is the proximity of your home to the proposed  
14 pipeline?

15 A I am an actual property abutter to the power plant but  
16 I am approximately somewhere in the range of two, two  
17 and a half miles from the metering station, or the north  
18 end of the pipeline.

19 Q How close are you to the power plant?

20 A Approximately -- some of the figures on maps that I've  
21 looked at, something like between 800 and 1,000 feet  
22 from the cooling towers.

23 Q Are you a member of the Londonderry Neighborhood  
24 Coalition?

1 A I certainly am.

2 Q Why did you join Londonderry Neighborhood Coalition?

3 A I joined the coalition early on when we, again, I think  
4 we've had similar answers -- when we were listening and  
5 finding out what the process was involved in the siting  
6 of the power plant and we saw that there was really very  
7 few people that had the facts and they knew -- and they  
8 were willing to speak up and try to make improvements  
9 and get our voice heard. And the Londonderry  
10 Neighborhood Coalition was the only group available in  
11 our town that seemed to be doing that.

12 Q How long have you been tracking the pipeline and the AES  
13 Londonderry power plant?

14 A Exact date, I think it was the fall of 1998. Over two  
15 years anyway of tracking and investigation.

16 Q I'm showing you now what's been previously marked for  
17 identification purposes only as Exhibit L-5. Can you  
18 identify that exhibit?

19 A Yes.

20 Q What is that?

21 A That is my direct filed testimony that I --

22 Q Previously filed in this proceeding?

23 A Previously filed with you.

24 Q And is it a true and accurate representation?

1 A I would only ask a minor correction and clarity that  
2 I've noted. Some new information as far as the  
3 termination point of the Londonderry -- at the  
4 Londonderry North School. We know have been calling  
5 that the metering station on Adams Road.

6 Q Other than that change to your testimony, is it true and  
7 accurate?

8 A Yes.

9 Q Would you like to adopt that as your testimony here  
10 today?

11 A Yes, I would.

12 Q And do you have additional testimony that you'd like to  
13 give to the Committee today?

14 A Yes.

15 Q Now I know you've been present for much of the  
16 proceedings. Could you tell the Committee for what  
17 duration you've been present during these proceedings?

18 A Every minute from eight o'clock on Monday morning.

19 Q All three days?

20 A Yes.

21 Q Would you like to explain to the Committee some of your  
22 concerns regarding safety, health and environment in  
23 connection with the proposed pipeline?

24 A In regards to the pipeline, initially I had similar

1 statements that have been heard today where we really --  
2 we knew it was there but we really didn't understand  
3 what it was until we studied it, and this matter of the  
4 expansion has come to light. I mean, I travel over that  
5 pipeline maybe two to three times a day. My studies and  
6 getting on the web and trying to understand the  
7 technology is unbelievably frightening when you're a  
8 citizen and you're not aware of what this is. And I  
9 know many, many people in Londonderry are not aware of  
10 what this pipeline does. I know you people know what it  
11 does but we feel it -- I guess to summarize it. I don't  
12 know if I answered your question.

13 Q That's okay. Do you think that it would give the people  
14 in the town of Londonderry and perhaps elsewhere, who  
15 are effected by the proposed pipeline, a greater level  
16 of comfort if they felt as though they were being better  
17 educated by Tennessee Gas during the course of the  
18 proposed construction and all of these proceedings and  
19 also if, in fact, a certificate is allowed, throughout  
20 the course of construction?

21 A Yes, this has come up at several town meetings where we  
22 feel that they should notify and treat everyone that has  
23 schoolchildren in the town, or anyone that drives over  
24 -- everyone in the town should be educated to this

1 pipeline. And we never really got a response. They  
2 said, "Well, we'll notify the abutters" and I feel  
3 that's totally inadequate.

4 Q If, as a result of your being here today and having the  
5 ears of Tennessee and several people having seen your  
6 presence and counsel for Tennessee, it resulted in  
7 Tennessee's willingness to participate in conversations  
8 with you, public awareness programs, would you  
9 participate in that?

10 A Yes, I would.

11 Q How do you feel about the adequacy of information  
12 concerning emergency response programs that Tennessee  
13 may or may not be implementing?

14 A I am not aware of their emergency response procedure.  
15 They keep saying that they have one but it is not  
16 disseminated. They say they're working with authorities  
17 in Londonderry and I hear that but I don't see it. I  
18 mean, we just had an emergency response the other day  
19 when we had that leak at the metering station, but  
20 there's conflicting interests and conflicting stories  
21 and we don't know how -- was our fire department really  
22 aware of how to handle that? Did they have the material  
23 there, the safety sheets available? I don't know. I'm  
24 not privy to that information because I'm not on the

1 fire department. I'm just a resident. But to answer  
2 your question, I really am also appalled that that  
3 information isn't readily available.

4 Q Would you like to have that information available to you  
5 in the future, whether it be on a local level in the  
6 town of Londonderry, perhaps in the Town Hall or  
7 elsewhere?

8 A Yes. We've talked -- we're setting up a web site in  
9 town and we really want to be able to get this  
10 information to the people of the town and to have one  
11 point of access. I know they say, "Well, you can call  
12 the pipeline" or "You can call AES" but I feel that is  
13 totally inadequate. We need someone in the town, we've  
14 talked about it. There is, on the -- I think it will be  
15 in the town council meeting next week, we have on the  
16 minutes the proposal to set up an oversight committee to  
17 handle this aspect of it. Somebody that is technical  
18 enough -- I'm not saying we're experts but people that  
19 are technical enough to answer and be able to respond to  
20 the public too, other than just the companies  
21 themselves. It hasn't happened yet but it is something  
22 that we're looking into. The Londonderry Neighborhood  
23 Coalition has been looking into this and is actively  
24 pursuing this.

1 Q I know that you said that you've been here throughout  
2 the course of the testimony for these proceedings, and  
3 much of the testimony involved or included some  
4 suggestions for increasing testing, inspections and the  
5 like on both the existing 12 inch pipeline and the  
6 proposed 20 inch pipeline. How do you feel about that?

7 A Well, again, I am definitely in favor of using the best  
8 technology, the best inspection. But the trouble is,  
9 what does that mean? I have 30 years in the quality  
10 control field myself so I understand when they talk  
11 about specifications and the ability to inspect and  
12 enforce them. So I am very skeptical when I hear this  
13 discussion. If there is inadequate people to police  
14 this, I have total fear that it's not going to happen.  
15 I think this also happened in the power plant issue  
16 where we found out that DES -- there was a report in the  
17 *Globe*, I don't know if you remember that back a couple  
18 of years ago that the DES could not support if there was  
19 a problem at the power plant. And they admitted, the  
20 DES admitted that they could not support this. So I  
21 feel it's similar. I hear the Office of Pipeline Safety  
22 says that they also have fund problems. So you can  
23 understand our concerns. Well founded, I think.

24 Q What types of things would you like the Committee to

1           consider before allowing the Applicant a certificate, in  
2           addition to those things that we've discussed?

3       A     I would like to see more contracts in writing.  I think  
4           we brought up at the meeting that they have some -- I  
5           think it was brought up that they have an emergency plan  
6           but they didn't want to share it with the town.  I think  
7           we need to stop that.  We're not total idiots.  I mean,  
8           we're pretty dumb but we're not total idiots.

9       Q     Just to clarify, I think that there was an agreement,  
10           and I don't know if you were in the room at the time,  
11           but there was an agreement to share a generic proposed  
12           emergency plan that should not be copied for  
13           confidentiality and privilege reasons.  But that is  
14           something that you will be able to look at in the  
15           confines of my office, should you be interested.

16      A     How do we work that into a comprehensive plan that is  
17           interfaced with the town of Londonderry?  I've also seen  
18           -- there's a game being played between -- is the Town  
19           Council the authority in Londonderry or is are the town  
20           workers?  So many papers that come across my desk say,  
21           "We are presently working with the town, working for the  
22           Town Manager but we don't work with the Town Council."  
23           So there is -- we have to work that out, I say in our  
24           own town.  I'm not saying we're totally on top of this

1           either. Believe me, we're as frustrated or more  
2           frustrated than this Committee is, I feel. We don't  
3           know how to handle it. All we hear is, "Don't worry  
4           about a thing. The gas line company will handle it."  
5           AES says, "Don't worry about a thing. We'll handle it."  
6           But that's not good enough for us.

7    Q       So it sounds to me like you'd like to be better  
8           informed?

9    A       Yes.

10   Q       I know that you also have heard testimony today, rather  
11           extensively, about the use of Class 4 pipe in highly  
12           populated or densely populated areas, including the  
13           schools. How do you feel about that?

14   A       I think it's definitely the best technology. I think it  
15           will take some of the fears out of the people. If you  
16           can allay the fears of the people in Londonderry in any  
17           way, I mean, we're not talking about money here, you  
18           probably are but we're talking about the fears that  
19           people have that live in this town. And if you can  
20           allay them by putting in a Class 4 pipe, I think it  
21           should definitely be required. But again, knowing that  
22           if you don't inspect that pipe, I agree with them that  
23           if the pipe is inspected properly and the maintenance  
24           program is proper, then it is also even a better

1 advantage because we need to give the people of  
2 Londonderry a break. They haven't had one in over two  
3 and a half years of this process.

4 Q So understanding that you have upwards of 30 years in  
5 quality control, ensuring that inspections, which are  
6 required and inspections which are agreed upon and  
7 imposing conditions of inspection, would be important to  
8 you, would it not?

9 A Yes.

10 Q Would you also, along that line, like to see this  
11 Committee consider imposing standards that are greater  
12 than those minimum federal standards that currently  
13 exist?

14 A Yes. Definitely.

15 Q Just a couple of questions to tie this up, if I may,  
16 Roland. I know that you said that you've lived in  
17 Londonderry for several years. Do you know any people  
18 who have moved out of the town since the proposed  
19 pipeline and also the proposed power plant, which is, as  
20 I understand it, perhaps under construction at this  
21 point in time?

22 A That's a very good question. I live on Litchfield Road  
23 and it is kind of like, it's a part of North Londonderry  
24 and we're kind of a little bit of a community up there

1 on our own. We're a bit removed from the center of  
2 town. In that area, and also in our organization, we  
3 have -- I have a list of people but I can name -- I'd  
4 have to do a little research but at least 24 to 30  
5 families that I know -- I also have a hobby which is  
6 gardening and farming on my farm. I do know the  
7 neighbors well because of that. I have seen and I know  
8 my neighbors that have either left town, have moved out,  
9 have chosen that route, and believe me, we all consider  
10 it. We have some that are planning and trying to sell  
11 their house but haven't moved. I mean, you can drive up  
12 and down the neighborhood and you can see so many for  
13 sale signs, that you'd almost trip over them. But it is  
14 a sad fact. I mean, everyone says, "Well, there's  
15 people moving in, so what's your problem?" I'm saying,  
16 "Well, they're going to also have to address this." So  
17 it is not a happy town. I think that Val said it very  
18 well, that we -- I don't think you understood when she  
19 said that we are a devastated town, that you really have  
20 looked into what we mean by we're a devastated town.  
21 We're not joking about that in any shape.

22 Q Can you describe -- I know that you're familiar and  
23 you've been a member of the Londonderry Neighborhood  
24 Coalition, how the proposed pipeline and the power plant

1           have impacted your personal lives as a group? If you  
2           could do that, if you know.

3       A     Oh, God, don't ask me that question. We do not have a  
4           life. My wife and I practically -- we do not have a  
5           life. We attend every town council meeting, we attend  
6           every public meeting so that we can hear what's going on  
7           and we can keep track of what's going on. We spent the  
8           last week monitoring truck frequencies on Litchfield  
9           Road, which go into the plant site. I mean, we are  
10          adjacent to the plant site so we're always there  
11          watching what's going on and trying to monitor what's  
12          going on because the neighbors call and they'll come  
13          over to my house and they'll knock on the door and say,  
14          "Where are these trucks coming from?" And I don't know  
15          but I have been in discussions with AES on that and  
16          straightened out some of it. We have resolved some of  
17          those issues but again, it is -- I could not even count  
18          the hours. Luckily I am a retired professional and I  
19          thought I was going to retire. I think two years I  
20          addressed this group. I don't know if you remember that  
21          I said that my dream was to retire early. Well, I  
22          thought I was young anyway. But I was young then and my  
23          dream was to retire early and try my luck at  
24          agricultural pursuits, organic farming. That dream has

1           been curtailed and put aside. I tried, I try to go on  
2           because there's so many wonderful neighbors in my  
3           neighborhood that demand that I go on and service and  
4           give them the vegetables and flowers that they love.  
5           But it hurts. It hurts on a daily basis. There's not a  
6           day that we don't escape this in two and a half years.  
7           Our life has been destroyed. We would like to get away  
8           from it. We have considered moving away from it, even  
9           though this property has belonged in my wife's family  
10          for two generations. I think I said that the last time.  
11          I won't get into my last statement. But we have been  
12          devastated by this. We cannot afford to move. We are  
13          not rich people. We're trying to live a sustainable  
14          life, preparing, making our own foods. We burn wood, by  
15          the way. We haven't got solar energy yet but we're  
16          working on it. Yes, I could go on and on how this is  
17          impacted -- fortunately my wife and I both agree and we  
18          both fight together so we've made a new life of  
19          activism.

20        Q     Is there anything else that you would like to add?

21        A     Yes. I have several additional issues to add. I'll  
22          list them quickly here. I'll try to stick with issues  
23          that were brought during the three days. We brought up  
24          the, I guess to group it in one word, the risk

1 assessment issue, which we've also heard in town council  
2 meetings, where they have data reporting the safety of  
3 travel methods versus airplane travel and highway  
4 travel. I don't know if you all remember that  
5 testimony. I think it was yesterday.

6 ATTORNEY WAGELING: The risk of death.

7 A Right. Of course, I'll tell you right now that to me  
8 when you make a standard -- I look at a standard as  
9 saying that nobody should die. I don't like it when  
10 people start saying, "Well, if five or six die, somebody  
11 else, it's okay." I don't like that. But anyway, what  
12 happened was relative to that statement, that kind  
13 gentleman that brought in that paper at the town council  
14 meeting which gave the statistics, my answer to that is,  
15 if I may give it, is that when you fly in a plane you  
16 have a choice either to walk there or fly there. When  
17 you drive a car you have a choice, you can decide that  
18 you're going to buy a Volvo or you can buy a Pinto or  
19 a Corvair. But when the children go to school in  
20 Londonderry, they're not going to decide how far they're  
21 going to be from that pipeline. And I can't be more  
22 firm than that about that.

23 The other area that I'd like to talk about is, I  
24 did not hear at the meeting any discussion -- we heard

1 a lot about how sophisticated blasting is. I've never  
2 such great stuff, I mean, they can blast anywhere  
3 without causing any damage. It's wonderful. But we did  
4 bring up, or some of the town council, in our letter  
5 that the use of pneumatic hammers could be used instead  
6 of blasting, I thought. But I didn't hear anybody  
7 propose that. I'd like you just to consider that in  
8 future deliberation.

9 The other issue that was brought up that I haven't  
10 heard addressed is that one of the meetings that we had  
11 with Tennessee at our town council meeting several weeks  
12 ago, was whether or not they could empty the 12 inch  
13 pipeline. I really have a concern with the fact that  
14 the 12 inch pipeline is supposed to stay -- is that  
15 correct? Is supposed to stay in operation while this  
16 work is going on. I mean, we all know that some of the  
17 worst dangers and injuries have occurred when heavy  
18 equipment have run over another pipeline. I mean, one  
19 of the worst blasts was a bulldozer while they were  
20 putting it in. I think we all know that the biggest  
21 concern -- I mean, in our town we know that the biggest  
22 concern is when the construction goes in. We're  
23 petrified of that. I don't think you understand that.  
24 We're petrified of what's going on in our town.

1           The other issue that I wanted to bring up is they  
2           continually talk about the right-of-way and that they're  
3           using the existing right-of-way, the existing corridor.  
4           I have a real problem with that in that first of all,  
5           the dangers that they -- there's a potential for them  
6           causing, the dangers of explosion, dangers of pipe  
7           leaks, do not stay in the corridor. If it stayed in the  
8           corridor and they could keep it in there with walls then  
9           we could walk up and down Londonderry and not be  
10          fearful. But they make it sound like that corridor is  
11          the safest thing in the world and because of what our  
12          research is we know that's not true. You know, 500 feet  
13          away you can get roasted if you're in the way of an  
14          explosion.

15           I wish -- it has never been clearly stated, do they  
16          need to expand that corridor because of the 20 inch line  
17          versus the 12 inch line? Are you trying to tell me that  
18          the 20 inch line does not need a safer corridor than the  
19          one they have? I just throw that out at you for  
20          additional concerns.

21           The most unacceptable concern I have for school  
22          safety, and it wasn't addressed here yet, is the  
23          metering station. There's probably a few reasons why it  
24          wasn't addressed here, one of them could be that

1 EnergyNorth is part of it, which, of course, irritates  
2 me because they're not here and they're involved in the  
3 decision. But the metering station is still owned by  
4 Tennessee Gas as they said and a new item that was  
5 brought up this week was that there is a header up  
6 there. I wasn't aware of that. But as you know, there  
7 was a header involved in New Mexico which kind of caught  
8 my ear. I don't know if it caught yours. I also have  
9 come across -- I don't know where the data -- but I have  
10 some concerns and I wish Tennessee Gas could allay some  
11 of them. That at metering stations, at points of that  
12 -- filtering stations, there is higher risks of leaks  
13 and accidents. Now it wasn't brought out that that is  
14 right across the street from the North Elementary  
15 School. If you've ever driven out there and you've seen  
16 where that metering station is in conjunction with that  
17 school -- I hope you don't have children in that school.  
18 That's all I can tell you. I mean, I don't have  
19 children in that school. I had children -- I have three  
20 children, I have six grandchildren. Thank God they  
21 don't live in Londonderry so I don't have to move them.

22 But anyway, the North School, I don't know if  
23 things have changed but at one of the meetings -- I can  
24 only go by what I hear at these meetings and I

1 understand that EnergyNorth or the lateral terminal has  
2 already been approved. It was approved by FERC, I mean,  
3 EFSEC, as far as I know. I wasn't involved in FERC but  
4 this is what I know. I could be wrong. But it's  
5 supposed to cut right through the school yard. I mean,  
6 it never came up, never been addressed because you  
7 people separate everything into nice little neat  
8 packages so you can decide on them. There is a --  
9 and I heard there was some discussion today about Little  
10 Coos and the environmental study that was done there.  
11 As far as I know this is supposed to cut through our  
12 primary valuable wetlands in Londonderry.

13 The other issue I have is that I really enjoyed the  
14 last three days here because I saw and heard what our  
15 federal government can do to a committee. And the  
16 restrictions we talked about, the wild onions and the  
17 mussels and the environmental study, which I absolutely  
18 am in favor of. The work that was done was great.  
19 There's only one problem. It was not done for the power  
20 plant. As far as I understand, this power plant is  
21 built on valuable wetlands. The lateral is going  
22 through that. I mean, that might not be the case. If  
23 it is then they've changed their plans and that's never  
24 come up at any meeting that I've attended at Londonderry

1 Town Council.

2 And my last concern is that all through this  
3 process, the Londonderry Neighborhood Coalition, we've  
4 been told by many, many people it's a done deal. Why  
5 are you fighting? The decision was made in Washington.  
6 The decision was made by Governor Shaheen. We don't  
7 want to believe it's a done deal. We don't want to  
8 believe this Commission has already made and had a  
9 secret meeting, had already given some type of promise  
10 to AES and to Tennessee on this. We don't want to  
11 believe that. But when you see a power plant being  
12 constructed in your backyard, when you listen to the  
13 trucks and the bulldozers and the grinding machines and  
14 you hear this daily and you see one truck every ten  
15 minutes at 78 dB go by you, you begin to watch this a  
16 lot more closely. You say, why, why, Commissioners,  
17 would AES, a very intelligent, I give them all the  
18 credit in the world for their intelligence. And I know  
19 them. I've talked to Steve and I know these people, I  
20 feel to some degree. They have just completed their  
21 first cement pour, would they do this without some  
22 assurance of approval of a gas supply? Would you do  
23 that? I wouldn't do it in my own business.

24 I'd also like to -- I have a picture here to put

1           into evidence. I'd also like to ask you -- there was a  
2           recent article in the *Nashua Telegraph*, of course it was  
3           in the *Nashua Telegraph* because it's not a local  
4           newspaper as far as we're concerned. You might think it  
5           is but. Greg might think it is too but it isn't.  
6           Reporting that a large amount of pipeline construction  
7           equipment belonging to Delta Gulf Corporation is already  
8           staged in Londonderry. I've driven by it several times.  
9           I go by it on a daily basis. It is a tremendous amount  
10          of equipment. It is not tractors. I mean, it is heavy  
11          equipment and there's some pipes there, they're leaking.  
12          Anyway, it's major. We've got a picture of it here for  
13          you. I ask you, would you bring the equipment there if  
14          you did not think that this was going to be approved?  
15          This was several weeks ago. Please, please, help  
16          Londonderry. Help me. Help the Londonderry  
17          Neighborhood Coalition. Tell us it's not a done deal.  
18          Thank you.

19        Q     Do you have the photograph with you that you wanted to  
20              put in? Is this the one?

21        A     Yes.

22        Q     I'm going to hand this to you and state for the record  
23              what paper that came out of.

24        A     This is from the *Nashua Telegraph*. An article by Josh

1 Adams. I don't know exactly the date. Do you know?

2 MS. MAZZOLA: Within the last week.

3 A I don't have the exact date on it. I have got a call in  
4 to the author of that but I haven't been home to talk to  
5 him.

6 ATTORNEY ROCHWARG: I'd like to have that  
7 marked as Exhibit L-5a.

8 Q Is there anything further that you would like to add,  
9 Mr. Goudreault?

10 A I think it's late and I really -- I don't want to get  
11 the Committee any more angry at me than I can possibly  
12 do. Thank you.

13 Q No further questions at this time.

14 CHAIR: Thank you. Are there  
15 any other witnesses?

16 ATTORNEY ROCHWARG: No, that would be all  
17 of the witnesses for this evening, for this proceeding.

18 CHAIR: Okay. Thank you.  
19 Yes?

20 ATTORNEY SMITH: First, just a  
21 housekeeping matter. Is that L-5?

22 ATTORNEY ROCHWARG: L-5a. Thank you.

23 CHAIR: And we'd appreciate a  
24 date.

1                   ATTORNEY ROCHWARG:           I think the closest  
2                   that we've come is within a week.

3                   CHAIR:                   I know.        Could you  
4                   follow up with the actual date?

5                   ATTORNEY ROCHWARG:           Absolutely.

6                   CHAIR:                   Thank you.

7                   ATTORNEY SMITH:           May I inquire?

8                   CHAIR:                   Yes.

9                   ATTORNEY SMITH:           I'll try to be as  
10                  brief as possible.

11       **CROSS-EXAMINATION OF MR. GOUDREULT BY ATTORNEY SMITH:**

12       Q        You mentioned you are a property owner in Londonderry.

13       A        Yes.

14       Q        How far is your property boundary from the Tennessee Gas  
15                pipeline right-of-way?

16       A        I haven't measured it exactly but I assume since it's  
17                near Mammoth Road, approximately two and a half miles.

18       Q        Two and a half miles?

19       A        I think so.

20       Q        Thank you.

21                   ATTORNEY SMITH:           Before I forget,  
22                again, as a housekeeping matter, are you intending to  
23                withdraw the other pre-filed testimony, when you  
24                testified?

1                   ATTORNEY ROCHWARG:                Yes, we would do that.  
2                   Just for the record, we intend to withdraw the pre-filed  
3                   testimony of those people who couldn't be here this  
4                   evening but I did want the Committee to know it wasn't  
5                   for lack of interest.

6                   MS. BROCKWAY:                    Mr. Chairman, could  
7                   those materials possibly be submitted in the nature of  
8                   public comment?

9                   CHAIR:                                Fine.

10                  ATTORNEY ROCHWARG:                If the Committee would  
11                  consider that I would appreciate it.

12                  CHAIR:                                Sure.

13                  ATTORNEY ROCHWARG:                Thank you.

14                  ATTORNEY SMITH:                 Ms. Gabbidon?

15       **CROSS-EXAMINATION OF MS. GABBIDON BY ATTORNEY SMITH:**

16       Q     You were the president of the LNC?

17       A     Yes, I am.

18       Q     You formed it and have actually been involved for a  
19             couple of years?

20       A     Yes, and I have received personal threats during the  
21             past two years because I formed it.

22       Q     How many members of the LNC are there?

23       A     We haven't done a recent census.

24       Q     Could you give us some estimate of how many --

1 A I couldn't and I'll tell you why. Right now in  
2 Londonderry there is a mass exodus of people. On the  
3 street that I used to live on, I don't live near the  
4 power plant or near the pipeline, of 22 homes  
5 approximately 12 people have sold their homes.

6 Q And are these 12 people, people who were members of the  
7 LNC before they left?

8 A Quite a few of them.

9 Q Alright --

10 A Can I just finish for one second? Throughout  
11 Londonderry people have moved, not to other parts of  
12 town. People have felt almost helpless after the  
13 decision to site the power plant so they've moved in  
14 some cases out of the state, in some cases across the  
15 country. After the Supreme Court decision if you drive  
16 through North Londonderry today it looks like a  
17 wasteland. People are despondent and in the process of  
18 moving out. So it's very hard to say how many people  
19 still are left.

20 Q I appreciate that but are there more than 10 members?

21 A Are there more than 10 members?

22 Q Yes.

23 A Overall? Yes.

24 Q Are there more than 25?

1 A Yes. There are 25.

2 Q Active members?

3 A Yes.

4 Q Are there more than 50?

5 A Oh, I believe so, yes.

6 Q Do you have meetings, I assume, from time to time?

7 A Yes.

8 Q On average, how many people come to your meetings, who  
9 are actually active members of the LNC, if you could  
10 tell us?

11 A We have approximately one annual meeting a year.

12 Q But you meet at other times, is that right?

13 A The board.

14 Q Again, can you tell us how many people typically come to  
15 your meetings who you consider active member of the LNC?  
16 They have joined the LNC.

17 A We have board meetings every month and we have one  
18 annual meeting a year. I would have to check and see  
19 how many people attended the last annual --

20 Q Just approximately, 25, 50, 75?

21 A I couldn't tell you how many people attended the last  
22 annual meeting. I don't know.

23 Q Was it more than 25?

24 A I don't know. I'm sorry, I couldn't tell you.

1 Q You don't remember?

2 A I don't know right now.

3 Q Did the LNC participate in the proceedings before the  
4 Federal Energy Regulatory Commission, do you know?

5 A Before FERC?

6 Q Yes.

7 A Yes.

8 Q It did?

9 A Through our attorneys.

10 Q Thank you.

11 ATTORNEY SMITH: Ms. Kyleberg.

12 **CROSS-EXAMINATION OF MS. KYLEBERG BY ATTORNEY SMITH:**

13 Q Have you refused to allow the Tennessee Gas Pipeline  
14 Company to survey your property to figure out what the  
15 disturbance line would actually be?

16 A Yes, I have.

17 Q Thank you.

18 A The reason I did that is because they came up to the  
19 door and it was very intimidating the way they came up  
20 to the door, kind of demanding to go in the back yard,  
21 "We want to survey the yard" this that and the other.  
22 I had no idea there was a pipeline back there. This was  
23 before I got paperwork from them. Being a single person  
24 in the house by myself, obviously I'm not going to let

1 someone go in my back yard.

2 Q Well, you continued to not allow them to come on to  
3 determine where the disturbance would be?

4 A They haven't come since.

5 Q Oh, I see. Could I see your Exhibit L-3? Ms. Kyleberg,  
6 I still would like to ask you about this. I think you  
7 produced this newspaper article about the wetlands  
8 ordinance, is that right?

9 A Yes.

10 Q And this newspaper article, in fact, describes and  
11 provides a photograph of approximately 400 people who  
12 attended a meeting at the Middle School on the question  
13 of the proposed wetlands ordinance, is that right?

14 A Yes.

15 Q In fact, does the article that of the two dozen people  
16 who spoke at this meeting, not one single speaker spoke  
17 in favor of the proposed ordinance, is that right?

18 ATTORNEY ROCHWARG: Objection. The  
19 article speaks for itself.

20 Q Well, would you like to read it for me then, please?

21 A There were a lot of concerns that were brought up by the  
22 Conservation Committee.

23 Q Could you please sit down here?

24 ATTORNEY ROCHWARG: It's the intention of

1 the LNC to introduce the article into evidence so  
2 therefore I think it's the best evidence and it would be  
3 up for consideration before the Committee.

4 ATTORNEY SMITH: We have no objection  
5 to introducing it as an exhibit.

6 Q I'd just like you to read that right there, that  
7 paragraph.

8 A Okay. He's asking me to read a paragraph that you  
9 really need to know the whole context.

10 Q I'd like you to just read that one sentence please.

11 ATTORNEY ROCHWARG: I reiterate my  
12 objection. I think that if the whole thing is going to  
13 go into evidence then the whole thing should go into  
14 evidence, it shouldn't be taken out of context.

15 CHAIR: The objection is  
16 overruled and it's certainly pertinent to ask about one  
17 piece of the evidence that you've presented.

18 A Okay. "More than two dozen residents stepped up to the  
19 microphone and not a single speaker spoke in favor of  
20 the proposed ordinance." Now, the proposed ordinance --

21 Q That's all I asked you to read. Can I have that back  
22 please? May I have it back please?

23 A Obviously there has to be some ordinance to protect  
24 wells or Londonderry is going to have to do something



1 Q Thank you.

2 CHAIR: Any other questions?  
3 Nancy?

4 MS. BROCKWAY: Just one thing, which  
5 is I just checked on the Internet and the date of the  
6 article is October 16.

7 CHAIR: The *Nashua Telegraph*  
8 article?

9 MS. BROCKWAY: Yes.

10 ATTORNEY ROCHWARG: Thank you.

11 **EXAMINATION OF MR. GOUDREULT BY COMMISSIONER BROCKWAY:**

12 Q This question is specifically to Mr. Goudreault but  
13 anyone from the panel can answer it. The statement was  
14 in Mr. Goudreault's testimony, which was that anything  
15 that should be done that could alleviate the fears of  
16 the people of Londonderry. The question I have is  
17 whether or not it's possible to do that. This goes back  
18 to what the fellow who was proposing Londonderry Pig  
19 Day, Mr. Barton, he was making the point that technology  
20 always gets better; people's understanding of risk gets  
21 better. So there always will be something better around  
22 the corner. Putting those two things together and the  
23 level of concern which I'm sure I'm not the only one  
24 around the table here who appreciates very much your

1 coming here because we definitely palpably feel the  
2 concern that you have and understand that you have your  
3 kids in the school system, some of you are abutters and  
4 so forth. But would there, in fact, be anything that,  
5 assuming that this Committee had the jurisdiction to do  
6 it, and we know we've been warned that there are limits  
7 to that or we'd have a fight on our hands depending upon  
8 how far we decided to go. If we did everything that was  
9 asked for, would we not still have a situation in which  
10 people were scared?

11 A I'll take a stab at that. That's a good question. You  
12 always ask good questions, Nancy. There are things that  
13 could have went [sic] differently in this town, as far  
14 as these issues go, that could have made us all feel  
15 safer. We could have been brought into the process  
16 earlier. I can give you an example of what helped our  
17 neighborhood just last week when I contacted AES. I use  
18 that as an example a little bit but it's a good example  
19 I feel. Here we are, in our homes, unaware of what's  
20 going on and we get these 24 wheel, whatever you call  
21 them, gravel trucks going by at a rate of one every 15  
22 minutes. We get used to it after three days but like on  
23 the third day they now have a Redi-Mix truck, how many  
24 tons that is, coming by every 10 minutes of 15 minutes,

1           which adds to a truck every 10 minutes. Now picture  
2           yourself sitting there and thinking, "Is this what  
3           construction is going to be like?" I had no  
4           understanding of what's going on and neither did my  
5           neighbors. They're calling me up, they're coming over.  
6           I do not know. Does that give you an idea of how fears  
7           can be allayed? When we did get to the bottom of it,  
8           when we did get answers, I mean, I did not get called  
9           back the first day, the next day I did. I understand  
10          now that that was a pour. I didn't know what a pour  
11          was. I didn't know how long they were going to last.  
12          I didn't know how many -- there's a lot of people on our  
13          street did not even know that trucks were supposed to go  
14          on that street. Now whether that's their stupidity or  
15          not I don't know, but they didn't know. So was there a  
16          failure to communicate here? Of course there was a  
17          failure to communicate. And I addressed that with AES.  
18          And that's what we don't like. We're not -- the LNC  
19          is looked upon as a bunch of subversive activist  
20          fanatics that they won't even talk to. And I think they  
21          made a big mistake when they took that position. If  
22          they had put us at the table, put the community at the  
23          table with these negotiations. If they had done that,  
24          I mean, we didn't know what we were doing two years ago

1 when we sat before you people. We didn't even know what  
2 the procedure was. We were not even full intervenors at  
3 that time.

4 To answer your question, we are not, I mean, it  
5 hasn't even come up, I was hoping it was going to come  
6 up but nobody has asked me am I an anti power plant  
7 person? I've had this discussion with Steve Hase. I  
8 said, "No, we're not anti power plant people. But we  
9 have some strong ideas about that plant and its best  
10 technology." It's too big for that site. We told you  
11 a hundred times that site is wrong for that plant and  
12 you would not listen to us. It is too big for that  
13 site. We told you that. Nobody cared. I said, "I'll  
14 take a 500 megawatt." The biggest problem, the biggest  
15 issue and the fear of my neighbors, I'm talking about  
16 just not me [sic] but my neighbors and the LNC too. I  
17 think I can speak for some of them. The wet cooling  
18 system is not a controlled technology. It really is not  
19 controlled properly by the federal government. They're  
20 going to put waste water 800 feet from my house, four  
21 million gallons a day into the air. Do you think our  
22 neighborhood is sitting there quietly thinking this is  
23 just wonderful that they're going to have free water?  
24 No, they're not. They're scared out of their bloody

1 minds. Does that answer your question, how that could  
2 have been alleviated?

3 They've never been able to -- we had a  
4 collaborative session that never agreed on anything as  
5 far as I'm concerned. We had the CLF, which was  
6 actually paid for -- which was supposed to protect us as  
7 citizens, bought by AES and working for AES. And they  
8 still are. I'll tell you right now we are not done with  
9 this issue. We were not listened to. These fears in  
10 town, these are not just my fears, these are fears that  
11 are talked to me on a daily basis by people in our  
12 community. I do not think you still get that our  
13 community is devastated. I don't think you get it. I  
14 hope that answers your question.

15 MS. GABBIDON: I just wanted to  
16 answer part of that, if I may. I think you need to  
17 realize there's a difference between fear and concern.  
18 When I get in my car I put on my seatbelt, not because  
19 I fear that I will get into an accident but I am  
20 concerned that if I do get in an accident that I  
21 mitigate any impact the accident will have on myself or  
22 my children. My husband flies quite a bit with his job  
23 and he has concerns of course about air transportation  
24 but we have FAA as a regulatory body to alleviate some

1 of the concerns that citizens have about the airline  
2 industry.

3 I think we should keep the FDA, not because I don't  
4 believe that we should take medication or eat but I  
5 think that people have concerns that companies don't  
6 always look after the best interests of citizens. So  
7 when we say that as a community we are concerned that if  
8 we left it up to Tennessee Gas to implement and enforce  
9 their own regulations it's because history has dictated  
10 -- and I think we see that in almost every industry,  
11 that there has to be a buffer between the citizens and  
12 the industry.

13 Fear -- and the fear that you hear people talk  
14 about, at least in our organization, is not related  
15 specifically to these proceedings or the power plant  
16 proceedings. When you talk about fear, and I think it's  
17 important that the Committee know this, that we have had  
18 numerous incidents where members of our group have been  
19 threatened, driven off the road. We have four  
20 complaints at the AG's office. There was a gentleman  
21 who claimed to be being paid by the power plant company  
22 who tried to hit me in March. And that's at the  
23 Londonderry Police Department. So our fear is that you  
24 do have people in the industry who are out of control.

1 But our concern is that the industry knows that there  
2 are some guidelines and there are ramifications for  
3 every action taken. That's just all I had to add.

4 MS. BROCKWAY: I just wanted to make  
5 it clear that I hope that I did not give the impression  
6 that I was denigrating any of the fears that have been  
7 expressed. There have been two courses of action  
8 suggested to the Committee at various times during these  
9 hearings, one of them is require an additional change or  
10 restriction or some different technology, almost as a  
11 public relations gesture. It won't really have anything  
12 to do with safety but it will make people feel better.  
13 And the other one is: do what's necessary to make it  
14 safe and ignore the PR. I'm inclining toward doing  
15 what's necessary to make it safe and ignoring the PR and  
16 one of the reasons for that is because I don't think  
17 that any amount of PR investment would be sufficient,  
18 for whatever reason. Whether the history of it or  
19 whatever reason. But that's what I was trying to  
20 explore is whether, in a sense, what standard do you  
21 think the Committee ought to use? Should it be --  
22 should we give you things that you've asked for because  
23 in our judgement it will quiet concerns? Or should we  
24 give you things that you've asked for if, in our

1 judgement, we think if we had our kids in that school or  
2 we were abutters we would like to have those things done  
3 as a matter of safety or whatever the other standard  
4 was?

5 MR. BARTON: Nancy, may I say  
6 something to that? I really believe, I really, really  
7 believe that putting in best available will go a long  
8 way towards allaying real fears that people have. The  
9 alternative route concept that has -- I know that  
10 there's been one tossed around by FERC and another  
11 modification somewhere in there. But anything along  
12 those lines or a compromise of both, if you consider  
13 that in Arizona a truck 900 feet away was incinerated,  
14 pretty good guess that the people who would have been in  
15 that truck would have been there too. You're drawing --  
16 in this meeting they were drawing 300 foot radius and  
17 calling that a safety zone. Well, there's 600 feet of  
18 burn that I would, you know -- but if you minimize the  
19 risk, and I minimize by using the best available  
20 technology in that area where there's that concentration  
21 of people. 4000 kids on a given day in those three  
22 schools and 800 teachers and administrative staff,  
23 that's a pretty good catastrophe. If you did a  
24 combination of those two things: move it and put the

1 Class 4 pipe in, I think it would go a heck of a long  
2 way. And I do believe that it would allay a lot of  
3 fears that people have. I really do. I think the thing  
4 -- that explosion in Carlsbad made it real for people,  
5 made it very real and very scary. So I really think  
6 that this is not an irrational fear. And I know that  
7 you're not minimizing that but I also want you not to  
8 forget the PR aspect of this because it really is -- I  
9 think it really would make a difference. I really do,  
10 especially if you can say to people, point for point --  
11 in fact, if our town council, back when they were  
12 proposing the power plant, bothered to get educated on  
13 it and go point for point and say this is where this is,  
14 you know, this technology is better than that technology  
15 and we had them use that instead because of these  
16 parameters, and sold it to the people instead of trying  
17 to -- we had to scrape and fight and go into every  
18 blessed meeting and tell these guys who just said,  
19 "Yeah."

20 We really should do this for the people. I think  
21 -- I don't know how many miles we're talking about  
22 through that school zone but I can't imagine that it  
23 represents that big a cost increase.

24 MS. MAZZOLA:

I'd like to make one

1 comment also about the fears. Some of this may be a  
2 little redundant and I apologize if it is. When this  
3 whole process started I had concerns. I was not  
4 fearful, I had concerns. What made me fearful was that  
5 along the way it seemed like nobody who had the power to  
6 address those concerns had any fear about what we were  
7 trying to -- what we were concerned about at the time.  
8 And as the process has gone on my fear -- some of those  
9 concerns had turned to fear only because the very people  
10 that we needed to turn to to make sure that those  
11 concerns were addressed, something went wrong. And when  
12 my fear -- I have a few fears left, not left, I should  
13 say that have been created through this process and one  
14 is, and I had mentioned this before, that we are  
15 residents and we are citizens of the United States and  
16 here we are trying to exercise our rights and we're in  
17 fear of the price we're paying for that, in that, we are  
18 threatened, run off the road, harassing telephone calls  
19 at our home. I'm going to say this and I may not -- but  
20 I have concerns that my phone line at my home is not  
21 secure. Somehow information that I have exchanged with  
22 people on my private phone line has gotten to places  
23 that could have got there by no other way but that  
24 invasion of my privacy.

1           Anyway, given that, those are my fears. That a  
2           company can engage -- and I don't know -- I should say  
3           a company can come into town and all of a sudden these  
4           things start happening. That's my fear. We do plan --  
5           this is not a dead issue. And my fear is, again, that  
6           comes back to somebody is going to get really hurt over  
7           this. So I guess one of my fears that has been created  
8           through all this is that in a country where we're  
9           supposed to be free to speak, is that really the case  
10          because when we try to speak we become in fear for our  
11          lives or our safety and the safety of our family.

12           As far as the best available technology and the  
13          other requests that we have asked around the schools and  
14          moving the pipeline and upgrading it, I would feel very  
15          good if -- and it would actually give me back some of my  
16          confidence that there's somebody out there that cares  
17          about the safety of our children as opposed to how much  
18          it's going to cost. Because in the long run, these  
19          powerful companies are going to make their money and  
20          they're going to make their profits but all it takes is  
21          one accident and they continue to go on and make their  
22          money but we will be absolutely devastated as a  
23          community. Thank you.

24                           ATTORNEY V. IACOPINO:       Mr. Chairman, may I

1 ask Ms. Mazzola a question?

2 **EXAMINATION OF MS. MAZZOLA BY ATTORNEY V. IACOPINO:**

3 Q I understood before, previously that you were concerned  
4 with the construction time table.

5 A Yes.

6 Q And I just happened to be glancing at the FERC order  
7 that was handed to us today and the FERC order requires  
8 that Tennessee consult with the school district to  
9 determine the time period during which there will be the  
10 least use of school facilities and the least disturbance  
11 to school use. Is that basically what you're asking  
12 this Committee to adopt also?

13 A Yes. Actually, I'd like to address the wording of this  
14 FERC document since it's another thing I think --

15 Q Well, we can't change that.

16 A No, I know but this is a concern of mine. I read this  
17 and what this does is leave it wide open because in the  
18 end it says they can consult with the school board but  
19 that --

20 Q No, it says that they 'shall'.

21 A Okay. It will consult with the school board. Consult  
22 means talk with them about what they would, my guess  
23 would be prefer as a time table for construction. But  
24 nowhere in this paragraph does it say, does it forbid

1 the construction of this pipeline to happen during the  
2 hours or the days when the school is in attendance. And  
3 in the last sentence here it says, "Tennessee will  
4 conduct the replacement on school property during this  
5 time period as long as it is consistent with the overall  
6 requirements of the project." Now, my interpretation is  
7 that's a door that's open so that if they, after  
8 consulting with the school board, they decide that the  
9 time frame in which the summer falls or the time that  
10 the kids are not in school is not consistent with the  
11 power plant project, in other words, if they delay the  
12 construction of the pipeline because the kids are in  
13 school and it impacted the construction deadline or the  
14 completion deadline of the power plant, that they have  
15 the right to say, "Well, we're sorry but what you're  
16 suggesting to us is not consistent with the overall  
17 requirements of the project."

18 Q Well, that's the way you read it. You see some door  
19 that's open for them to change that.

20 A Yes. Because, in my experience, if something isn't in  
21 writing and concrete, in other words, it stays A,B,C and  
22 it's clear in black and white then it's used in a way to  
23 again, like I said, it's sort of manipulated, I guess,  
24 in the best interests of the company.

1 CHAIR: Any other questions  
2 from members of the Committee or staff? Michael?

3 ATTORNEY M. IACOPINO: I just have one. Mr.  
4 Goudreault, you had mentioned during your testimony  
5 something about a leak at the metering station recently?

6 MR. GOUDREULT: Yes. I'm not fully up  
7 on that. There is a -- do we have a newspaper article  
8 here available?

9 MR. BARTON: What do you need? I'm  
10 the one who mentioned it.

11 ATTORNEY M. IACOPINO: Do you know where the  
12 leak was?

13 MR. BARTON: I was only told it was  
14 a metering station. It was reported by the fire chief  
15 that it was a leak at the metering station because a  
16 worker -- they were doing some maintenance or something  
17 and the leak came from, not the gas but the odorizing  
18 agent. They said that that's where -- at that metering  
19 station is where they add that agent and that's why I  
20 made the point because it's so far down line. After all  
21 the schools have had their gas or it has already passed  
22 by the schools, it doesn't get added until the very end  
23 of the line.

24 ATTORNEY M. IACOPINO: Do you understand that

1 gas may be added at different points along the line?

2 MR. BARTON: No, I didn't.

3 ATTORNEY M. IACOPINO: Well, okay. So it's  
4 at the metering station owned by Tennessee Gas, is that  
5 --

6 MR. BARTON: Yes. Right?  
7 Tennessee? Do you know this?

8 ATTORNEY M. IACOPINO: While you guys have  
9 got the chance, did you learn any other information  
10 about that?

11 MR. BARTON: Here's the article.

12 MS. GABBIDON: The person who had  
13 direct interaction with the fire chief is a man by the  
14 name of Richard Bielinski. He actually -- his wife went  
15 to take their child to an adjacent daycare center and  
16 there was this overpowering odor and the daycare center  
17 was in the process of evacuating and opening all the  
18 windows. And he, in turn, contacted the fire chief, who  
19 in turn got back to him and said that he had to notify  
20 Tennessee Gas. He, unfortunately, was here for most of  
21 the testimony.

22 ATTORNEY M. IACOPINO: Richard?

23 MS. GABBIDON: Yes, Richard. But had  
24 to leave about two o'clock today.

1                   ATTORNEY M. IACOPINO:       Thank you.   That's the  
2                   only question I have.

3                   MR. CANNATA:                   Just a follow up  
4                   question.   Perhaps we could ask the Applicant, Mr.  
5                   Hamarich, with regards to the addition of odorant, they  
6                   were discussing the odorant leak that took place at the  
7                   Londonderry metering station within the last couple of  
8                   weeks.   And there was a concern that there was no  
9                   odorant in the pipe prior to that point as it went by  
10                  the schools.  Could you just describe what the process of  
11                  adding odorant in is.  Where it's put into the system  
12                  and what your requirements are.

13                  MR. HAAS:                   Can I answer that one?

14                  MR. CANNATA:                   Sure.

15                  MR. HAAS:                   Actually on our system  
16                  we're required to inject odorant well upstream of  
17                  Londonderry.  As a matter of fact, all of New England is  
18                  odorized on the system.  What you're talking about is  
19                  additional odorant that's required by the state that  
20                  EnergyNorth injects on top of the odorant that we're  
21                  required to.  So all of the gas in New Hampshire is  
22                  odorized.  This is just on top of that.  And the leak  
23                  that you're talking about was the EnergyNorth facility  
24                  that's injecting it.

1 MR. CANNATA: There was one other  
2 area I'd just like to clear up from a technical basis.  
3 I think it was Mr. Goudreault discussed the possibility  
4 of perhaps emptying the 12 inch pipeline before  
5 construction is undertaken for the 20 inch. My  
6 understanding of the system, and I'm going to ask the  
7 Applicant if this is a correct understanding, that if  
8 the 20 inch line is replacing the eight inch line, if  
9 you take and de-gas the 12 inch line, that the tens of  
10 thousands of customers north of Londonderry, all the way  
11 to Laconia, would have to be without gas for the total  
12 construction season. That they have an obligation to  
13 keep service for the tens of thousands of people. Is  
14 that a correct understanding? If you could just comment  
15 on that please.

16 MR. HAAS: Yes, as a matter of  
17 fact, what we would have to do is shut off the entire  
18 system in Dracut and take it out of service for that  
19 construction period. Because we wouldn't necessarily  
20 start it and move in pieces from the southern end north.  
21 So it wouldn't just be from the Londonderry point north  
22 that would be impacted, it would be the entire New  
23 Hampshire system.

24 MR. CANNATA: So the schools

1 themselves that they're concerned about, would be  
2 without the facilities in order to run?

3 MR. HAAS: I don't think they run  
4 on natural gas but any residents or businesses that are  
5 fed off the line would be impacted during construction.

6 MR. CANNATA: I was assuming they  
7 were gas customers.

8 MR. GOUDREULT: May I comment? At the  
9 meetings that that was discussed they stated that they  
10 would be able to -- they were going to try to do this  
11 whole project in the summertime when there was not a  
12 customer demand. That's what they told us.

13 MR. CANNATA: My understanding would  
14 be such that if you had a system that has both a 12 and  
15 an eight inch pipe, in the wintertime you need both  
16 facilities to feed the peak demand. However, in the  
17 summertime you could take one of those facilities out  
18 and still meet the summertime demands when they're low.  
19 But I don't think you can take everything out. And  
20 that's the only point I wanted to make sure you  
21 understood.

22 MR. GOUDREULT: But you realize that  
23 we feel that we have a fear of that?

24 MR. BARTON: Could they at least

1 pig it when it's over? I mean, when the construction is  
2 over. I love the pig. We can have two pig days.

3 CHAIR: Any other questions?  
4 Okay. Thank you. Are there any other members of the  
5 public -- excuse me, did you have a follow up? Sorry.

6 ATTORNEY EDWARDS: Yes. On the members  
7 of the public issue, Commissioner Brockway has asked if  
8 we could submit the pre-filed direct testimony from  
9 those LNC members that could not testify tonight. We  
10 have them. We have marked them for exhibits. I just  
11 want to read them into the record and then offer them  
12 in.

13 ATTORNEY V. IACOPINO: They're not exhibits,  
14 are they?

15 ATTORNEY EDWARDS: These are for public  
16 comments.

17 CHAIR: Aren't they already  
18 in? Or not? Oh, we struck them already so -- okay.

19 ATTORNEY EDWARDS: Right. I had them  
20 struck. So they're now being reintroduced for public  
21 comment purposes. The first one is --

22 ATTORNEY SMITH: They're just to be  
23 submitted in writing?

24 ATTORNEY EDWARDS: That's all I'm doing.

1 ATTORNEY SMITH: Rather than reading.

2 ATTORNEY EDWARDS: No, I'm not reading  
3 the entire document. I'm just going to read the names  
4 of the witnesses.

5 ATTORNEY SMITH: Oh, okay.

6 ATTORNEY EDWARDS: The first one is  
7 marked L-3 and this is by Nikki Sosnick. The next one  
8 is marked L-4, this is by Richard Evans. The next one  
9 is marked L-9, this is by Vinnie Samson. The next one  
10 is L-10 by Richard Bielinski. And the last one, L-11 by  
11 Denise Southmayd. Thanks.

12 CHAIR: Thank you. Nancy?

13 MS. BROCKWAY: I've got a couple of  
14 questions for the Applicant based on some of the  
15 concerns that were raised by the witnesses for the LNC.  
16 I'm not sure to whom to direct it but let me just put  
17 out the question. The first -- I apologize, I'm  
18 forgetting people's names but it had to do with the  
19 trees and the statement that trees will not be restored,  
20 rather the company will seed it. And I don't know  
21 whether this has been testified to earlier but can  
22 someone clarify whether that is in fact the proposal by  
23 the Applicant and whether the Applicant would consider  
24 restoring trees. If you could identify -- we have one

1 of the site maps here which shows Wilshire Drive and it  
2 shows the plots identified here. If someone could use  
3 one of those so that we could know what you were  
4 referring to. Mile 27.

5 MS. KYLEBERG: In the, again, in the  
6 environmental assessment from --

7 MS. BROCKWAY: I'm sorry, ma'am, it's  
8 not actually a question for you. What I'm trying to do  
9 is get the Company to respond to the concerns that you  
10 raised.

11 MS. KYLEBERG: I'm sorry. I was  
12 going to read it out of here what they said.

13 MS. BROCKWAY: Oh, that's okay. They  
14 might repeat that or they might make further offering.  
15 We'll see what they say tonight. While they're looking  
16 for that, is the environmental assessment in the record?

17 ATTORNEY ARNOLD: Yes, it is. It's --

18 MS. BROCKWAY: That's okay. That's  
19 all I needed to know.

20 ATTORNEY ARNOLD: It's 76. It's there.

21 ATTORNEY SMITH: Do you have the  
22 drawings there?

23 MR. CANNATA: Yes, we do.

24 ATTORNEY SMITH: It's ED504.

1 MS. BROCKWAY: And that is -- I'm  
2 sorry ma'am, I've forgotten your name. Kyleberg.  
3 That's Ms. Kyleberg's property. As I look at this map  
4 the lot, if these marks show the lot lines, the lot goes  
5 all the way back and corner of it is actually across the  
6 pipe itself. And the very, very back corner is within  
7 a hatch marked area. First, is that hatch marked area  
8 the same as the corridor that we were talking about?

9 MR. LOPEZ: The hatch marked area  
10 indicates the construction corridor.

11 MS. BROCKWAY: The construction  
12 corridor.

13 MR. LOPEZ: No trees would be  
14 permitted within 15 feet of this replacement pipeline.  
15 Now anything outside of that towards the house, we may  
16 discuss replanting. But inside the permanent space we  
17 wouldn't allow any trees to be replanted.

18 MS. BROCKWAY: Do you know what the  
19 scale is on this map?

20 MR. CANNATA: I think it 1:200.

21 MS. BROCKWAY: One inch is 200 feet?  
22 Do you have a --

23 MR. CANNATA: I think if you go  
24 right down here, Nancy, this is what you're looking at

1 right here.

2 MS. BROCKWAY: We're having an off  
3 the record discussion trying to scale the map.

4 MR. LOPEZ: Let me say, I was  
5 looking at this and I don't know what you -- the  
6 document that controls your property is and I don't like  
7 to conduct individual negotiations in a public forum.  
8 You're putting me on the spot here and I'm just going to  
9 tell you that we will not --

10 MS. BROCKWAY: Well, I'm asking you  
11 the question, sir.

12 MR. LOPEZ: Yeah, and I will tell  
13 you that I don't negotiate in public. But I'll tell you  
14 this --

15 MS. BROCKWAY: I'm not negotiating  
16 with you, I'm asking you a question.

17 MR. LOPEZ: And I'm going to  
18 respond that no trees are permitted within the permanent  
19 space. And if I review this individual's easement I can  
20 determine what the permanent space is. I said 15 feet  
21 a minute ago but that may not be correct.

22 MS. BROCKWAY: When you say permanent  
23 space, that has to do with your easement?

24 MR. LOPEZ: That's correct.

1 MS. BROCKWAY: And that's some  
2 distance from the pipe, generally speaking?

3 MR. LOPEZ: That's right.

4 MS. BROCKWAY: So it's not 15 -- is  
5 it 15 feet from the space or 15 feet from the edge of  
6 the space? In other words, can we look at this map and  
7 get a sense roughly --

8 MR. LOPEZ: No. This map just  
9 shows the corridor here so I don't know what of that is  
10 permanent and what of that is temporary.

11 MR. CANNATA: But it would be 15  
12 feet from the pipe, correct?

13 MR. LOPEZ: Possibly. As I said,  
14 I don't know what the specific easement says on her  
15 property.

16 MR. CANNATA: Until you know the  
17 temporary versus the permanent and where the location is  
18 on each individual parcel?

19 MR. LOPEZ: That's correct.

20 MS. KYLEBERG: Just to keep in --  
21 apparently there's been other people that Collette has  
22 talked to that also have a concern about the destruction  
23 that's going to be occurring on their property. They've  
24 also been told it's going to be seeded. I just happen

1 to be the one who is here but there's a lot of other  
2 people that are concerned.

3 MR. LOPEZ: And let me assure you  
4 that we're dealing with all those folks.

5 MS. BROCKWAY: When you say 'dealing  
6 with all those folks' -- for the rest of the people in  
7 the room, what we're doing is we're not negotiating.  
8 Maybe, Mr. Chairman, what I could do, respecting the  
9 fact that they don't want to negotiate through this  
10 process, and I understand that. I get a sense consistent  
11 with the environmental assessment of the Federal Energy  
12 Regulatory Commission, if they could show mile 27  
13 showing where the trees -- if that were adopted, where  
14 the trees would be gone from. And what they're current  
15 blanket willingness is with respect to reseeded trees,  
16 understanding that they may negotiate for some further  
17 remediation for individual abutters.

18 ATTORNEY SMITH: I'm sorry. I thought  
19 they were trying to figure out the answer to your  
20 question. I'm not sure anyone actually heard it.

21 MR. LOPEZ: I'm sorry.

22 MS. BROCKWAY: What I was suggesting  
23 is one way to deal with this would be if the Company  
24 could provide map mile 27, or at least the part of it

1 that's associated with Wilshire Drive, showing if you  
2 were to meet the standards set forth in the  
3 environmental assessment adopted by FERC, where would  
4 the trees be gone from and where, if at all, would they  
5 be restored to? And what has been the proposal here for  
6 the minimum amount of tree restoral the Company would  
7 do? I understand that you may talk with individual  
8 abutters and you may come to different agreements or you  
9 may substitute something for tree restoral here,  
10 whatever, but just sort of as a blanket floor on what  
11 you're proposing, what it would look like. If that is  
12 different from the environmental assessment. What I've  
13 heard in the colloquy we just had was that it is a bit  
14 different. Without taking a lot more time tonight I'm  
15 trying to get a sense of it.

16 MR. CANNATA: Mr. Chairman, may I  
17 suggest, I think your looking at the map and identifying  
18 the right-of-way for Ms. Kyleberg seemed to change the  
19 location of where you thought that right-of-way was. I  
20 mean, if you are willing to let the people on the  
21 property and survey the property, they could give you a  
22 better feel of just what the treeline that they were  
23 talking about was.

24 MS. KYLEBERG: Now it's even worse

1 than I thought. I thought the pipeline was abutting the  
2 property, I find it's on. Things have gotten from worse  
3 to more worse.

4 MS. BROCKWAY: I had one last  
5 question for the Company regarding issues that were  
6 brought up. And I will attempt to do a very quick  
7 question about it but if it gets bogged down then I  
8 think we have testimony earlier. It has to do with the  
9 assertion that it's hard to prove that Tennessee Gas was  
10 the one that contaminated a well. What I didn't  
11 understand was what the remedy was for that problem  
12 other than just don't do this construction. I  
13 understand the Company's position is, "Well, don't  
14 worry. We can do the construction and we won't  
15 contaminate any wells." Is there any middle ground that  
16 we can find between those two positions? Is there any  
17 way to tell whether or not Tennessee Gas was the one  
18 that contaminated a well, if it happened? There was  
19 some talk yesterday or the day before about some  
20 monitoring but I'm not sure that I captured that.

21 ATTORNEY SMITH: I'm not sure I can  
22 help but I thought that part of the testimony -- the  
23 thrust of part of the testimony was that we would know  
24 certain things as a matter of physics and measurement.

1 And from that other measurements or conclusions could be  
2 calculated. I thought what the witness was saying, up  
3 to a certain -- beyond a certain point there would be a  
4 vanishing probability that anything that was done on the  
5 pipeline could have affected the well or would have  
6 affected it even closer in on a long term basis. But  
7 that's my effort to recharacterize what I thought they  
8 were saying. So if you're looking for lines or some way  
9 to approach this we've set up a 200 foot limit because,  
10 I think the working assumption is it would be extremely  
11 unlikely that anything would be affected beyond that.

12 MS. BROCKWAY: I apologize. Mr.  
13 Smith, you're reminding me of what was discussed.  
14 Within that 200 foot limit there will be measurements  
15 taken of the water quality before and after?

16 ATTORNEY SMITH: Yes.

17 MS. BROCKWAY: Okay. And you all  
18 will be providing some document responsive to the  
19 request that I made on the record with regard to the  
20 tree restoration?

21 ATTORNEY SMITH: They were trying --  
22 you were trying to consult on that?

23 MR. HAAS: Yes, we can do that  
24 but we do need access to the property to do an actual

1 survey so we'll know exactly where the trees are, so we  
2 can identify them. So if we can get access to the  
3 property we can gather that information and submit it.

4 MS. BROCKWAY: So perhaps with the  
5 good offices of counsel for the Londonderry Neighborhood  
6 Coalition you all can work out some kind of arrangement  
7 to get the best evidence that's going to be possible  
8 within the time frame that we need it?

9 ATTORNEY ROCHWARG: Absolutely.

10 MS. BROCKWAY: Thank you.

11 CHAIR: Any other questions  
12 from the Committee? We need to set some time frames, I  
13 believe, for some of the data requests.

14 ATTORNEY V. IACOPINO: Mr. Chairman, there's  
15 been numerous requests for data from Commissioners and  
16 others and I was wondering if you could request the  
17 Company to put in a letter to us the various agreements  
18 that were made, such as the graph records for the  
19 Sanborn metering station, the location of valves, the  
20 blasting agreements, pre and post blast agreements, and  
21 ground heave agreements. But I think if we can get a  
22 list of all those things to us then we'll know what to  
23 expect and they won't get lost in the shuffle. Any  
24 problem with that?

1                   ATTORNEY SMITH:                   I'm trying to make  
2                   sure I hear. You listed a number of things and we were  
3                   keeping a list during the hearing.

4                   ATTORNEY V. IACOPINO:                   Those are the ones I  
5                   could think of.

6                   ATTORNEY SMITH:                   And you would like a  
7                   letter that would memorialize what those are from us?

8                   ATTORNEY ARNOLD:                   You'll let us know if  
9                   we miss something.

10                  CHAIR:                                    We noticed you were  
11                  taking very careful notes.

12                  ATTORNEY ARNOLD:                   We've been trying.

13                  CHAIR:                                    You're a team.

14                  ATTORNEY V. IACOPINO:               I actually have about  
15                  a half dozen more here but you know what you agreed to  
16                  and I think if you memorialize that for us then we can  
17                  check it.

18                  ATTORNEY SMITH:                   I think you're  
19                  speaking about the things that the Committee asked us  
20                  about or agreements that were referenced that may have  
21                  been by public counsel, their expert, yes.

22                  ATTORNEY V. IACOPINO:               Right.

23                  ATTORNEY WAGELING:               I'm sorry, I don't  
24                  know if I heard what time frame, at least to get the

1 list and then --

2 CHAIR: We haven't set the  
3 time frame yet and that's the next topic.

4 ATTORNEY WAGELING: Well, Mr. Chairman, I  
5 just wanted to -- is there going to be a list provided,  
6 at least in the first instance, within a time frame and  
7 then if there are amendments to it -- at least so we'll  
8 all know what page we're on out of the gate. And I  
9 think if we don't get the list until a certain time  
10 frame then if there's something omitted there's a  
11 further delay.

12 CHAIR: Okay. Why don't we  
13 have counsel for the Committee confer with counsel for  
14 the Applicant, put a list together, send it out to the  
15 other parties immediately, meaning within the next two  
16 days. And then we'd like a response back within a week.  
17 Keep in mind some of the requests were made a couple of  
18 days ago so you've already had a couple of days' start.

19 ATTORNEY ARNOLD: Sure we have.

20 ATTORNEY SMITH: So the one week is one  
21 week from the two day point or today?

22 CHAIR: One week from Friday.  
23 Are there any other exhibits that we need to go over?

24 ATTORNEY SMITH: I'd like to make a

1 request that we strike the marking for identification  
2 and admit as full exhibits Applicant's Exhibits 1  
3 through 91 inclusive. I believe we also requested  
4 jointly the admission of L-3, the newspaper article.

5 CHAIR: Is that agreed to by  
6 all the parties?

7 ATTORNEY M. IACOPINO: Yes, we have no  
8 objections.

9 ATTORNEY V. IACOPINO: Marguerite?

10 ATTORNEY WAGELING: I'm sorry, I was  
11 consulting with a Committee --

12 ATTORNEY V. IACOPINO: He's moving Exhibits  
13 1 through 91 and L-3.

14 ATTORNEY WAGELING: I take exception to  
15 just one of them and it's, I believe, number 66, which  
16 was the proposed stipulation. I don't think that it's  
17 relevant nor was it technically put into effect. I know  
18 we made some other arrangements.

19 ATTORNEY ARNOLD: That's no problem.

20 ATTORNEY WAGELING: Thank you.

21 CHAIR: All in agreement on  
22 that?

23 ATTORNEY SMITH: Yes.

24 ATTORNEY WAGELING: I have no other

1 objection to any of the others. Thank you.

2 CHAIR: LNC?

3 ATTORNEY SMITH: I guess it could  
4 remain as identification only. Does that matter for the  
5 record?

6 ATTORNEY WAGELING: I have no problem with  
7 that.

8 ATTORNEY SMITH: We just don't strike  
9 the ID from that one.

10 CHAIR: Okay. Does that sound  
11 reasonable?

12 ATTORNEY WAGELING: Then later on when  
13 they're wondering what happened with that number no one  
14 will think that it somehow got missed. Probably a good  
15 idea.

16 CHAIR: Right. Good idea.  
17 Any other --

18 ATTORNEY EDWARDS: Yes, Chairman. We  
19 need to do something similar. We need to move to strike  
20 the exhibits for identification only and have them  
21 admitted as full exhibits.

22 ATTORNEY M. IACOPINO: That's the L-1 through  
23 L-11?

24 ATTORNEY EDWARDS: Yes, but it's not that

1 linear. I'm going to read them off, just the numbers.  
2 L-1, L-2, L-2a through g, L-3, L-4, L-5, L-5a, L-6, L-  
3 6a, L-7, L-9, L-10, L-11 and lastly, L-13.

4 ATTORNEY SMITH: I don't have on my  
5 list what some of them are. If you could just -- L-4,  
6 what is that?

7 ATTORNEY ROCHWARG: It's the public  
8 comment of Richard Evans.

9 ATTORNEY SMITH: Oh, alright. And what  
10 is 9, 10, 11 and 13?

11 ATTORNEY ROCHWARG: Probably the remaining  
12 public comments.

13 ATTORNEY SMITH: Those are all public  
14 comment?

15 ATTORNEY ROCHWARG: L-9 is the public  
16 comment of Mrs. Vinnie Samson. L-10, public comment of  
17 Richard D. Bielinski, Jr. L-11, public comment of  
18 Denise Southmayd. And L-13 is public comment of Nikki  
19 Sosnick.

20 ATTORNEY SMITH: If I understand how  
21 the record is usually maintained we wouldn't object to  
22 that. It would be my understanding that those things  
23 were public comment, would be placed in the record as  
24 public comment. That's a slightly different status.

1 CHAIR: Yes.

2 ATTORNEY SMITH: W i t h t h a t  
3 understanding we have no objection.

4 ATTORNEY M. IACOPINO: Was there an L-12 for  
5 identification?

6 ATTORNEY EDWARDS: No.

7 ATTORNEY M. IACOPINO: We'll just skip that  
8 number of was there a document?

9 ATTORNEY ROCHWARG: Skipped it. Skip that  
10 number. One was marked as L-3 so we remarked it as 13  
11 because we already had an L-3.

12 ATTORNEY V. IACOPINO: There was no 8 either?

13 ATTORNEY M. IACOPINO: What about L-8?

14 ATTORNEY EDWARDS: L-8 is also not  
15 present. It was never a document.

16 CHAIR: Any other housekeeping  
17 items? Also, I want to make it clear that there will be  
18 a transcript of this hearing and would ask that all of  
19 the members of the Committee, as well as parties, review  
20 that transcript. Is there any other information that  
21 needs to come before the hearing?

22 ATTORNEY V. IACOPINO: The motion to hold the  
23 record open for a certain time period?

24 CHAIR: I thought we had voted

1 on that, didn't we, for 10 days and then another 10 days  
2 to respond.

3 ATTORNEY V. IACOPINO: Ten days from today.

4 CHAIR: Yes. Mr. Goudreault,  
5 did you have something you wanted to add before we  
6 conclude?

7 MR. GOUDREULT: I just have one last  
8 request. I don't really know if you can authorize this  
9 or not but I wanted to point out the fact that we, in  
10 the Londonderry Neighborhood Coalition, would, at any  
11 time, and we would appreciate if it was possible to meet  
12 with anyone on this Commission and discuss further,  
13 because we know it's late. We felt that during the  
14 power plant hearing we would have liked to talk a lot  
15 more than we did. So, in this case, if there is  
16 anything, we are available through attorneys.

17 CHAIR: Thank you but we will  
18 now be in a stage of deliberation on the application and  
19 will not be available to meet with other parties. But  
20 we appreciate that.

21 MR. PATCH: In response, it might  
22 be helpful if legal counsel just explained to Mr.  
23 Goudreault and members of the public the ex parte  
24 provisions that we're subject to under the

1 Administrative Procedures Act. I know we've been  
2 advised of that through a memorandum to the members of  
3 the Committee. But if you would I think that would be  
4 helpful.

5 ATTORNEY M. IACOPINO: This board is sitting  
6 as an adjudicative body. You are all parties in this  
7 proceeding and you probably learned a little bit about  
8 what ex parte communications are over the last few  
9 months but essentially the Committee as a whole, nor any  
10 individual members of the Committee are permitted to  
11 take evidence from or hear your opinions without  
12 convening the entire Committee and having all of the  
13 other parties present as well.

14 MS. BROCKWAY: And we're not allowed  
15 to hear from the Company either.

16 ATTORNEY M. IACOPINO: That's correct. When  
17 I say 'parties' I mean the Company as well. Except to  
18 the limited extent that there are these record requests  
19 that are outstanding that have been made but there's not  
20 going to be, for instance, a lawyer for one of the  
21 parties who is filing an answer to the record request  
22 doesn't come in and see any member of the Committee and  
23 explain it further. Whatever is there will be in  
24 writing, it will be copied to your lawyer as well as

1 every other party and then there will be a period of  
2 another 10 days for responses to that.

3 ATTORNEY WAGELING: And I think, just for  
4 clarity also, when the documents are submitted there  
5 won't be any cover letter providing further discussion  
6 about the document. It's solely the documents that have  
7 been requested that will be provided with nothing  
8 further, as I understand it.

9 CHAIR: Let me also say though  
10 too that it is acceptable, if someone were to be  
11 presented with a general question about the operation of  
12 the Committee, the process that we follow in the  
13 application and deliberating on applications or holding  
14 public informational hearings and the like, that's  
15 acceptable. We just can't talk about the details of a  
16 pending proceeding that's before us.

17 ATTORNEY SMITH: I have one simple  
18 question, Mr. Chairman, my clients are asking if we know  
19 when the transcripts might be ready.

20 ATTORNEY M. IACOPINO: We can probably talk  
21 about that after. I need to speak to the stenographer.

22 CHAIR: I would like to now  
23 adjourn the adjudicatory hearing for the Tennessee Gas  
24 Pipeline hearing. I'd like to thank all of the local

1 citizens who have participated. I'd like to thank all  
2 the parties for their work and time and patience and  
3 expertise. And most of all, would like to thank the  
4 members of the Committee itself, who have shown what  
5 great public servants they really are. Thank you very  
6 much.

7 **OFF THE RECORD**

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